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THE NATIONAL BANKS

BY

H. W. RICHARDSON

AUTHOR OF "PAPER MONEY"

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PREFACE.

This review is, primarily, a collection from official sources of the main facts concerning the origin and practical working of the National Banking System. These facts appear to establish the following propositions:

1. The bank act was not an empirical measure, but a compilation of the best results of a series of legislative experiments carried on by the States for three-quarters of a century.

2. The law conferred some new privileges upon the banks, but so restricted their exercise of these, and of all privileges previously enjoyed by them, as to excite their almost unanimous opposition.

3. These restrictions, intended to protect the community at large, have proved so wholesome that the banks, with few exceptions, have become

reconciled to them, perceiving that their own interest, in the long-run, is identified with the interest of the community.

4. Under this law bill-holders are absolutely secured; the losses to all other creditors have been less than one-tenth of one per cent. of their claims annually; and this inconsiderable loss has been incurred by neglect or violation of the requirements of the statute.

5. The large profits of the banks prior to 1873 were not secured to them by the law, but were the consequence of the general inflation of prices, including the price of money, or rate of interest. Since 1873, the law remaining substantially unchanged, the net earnings of the banks have declined from 11 per cent. per annum to 5 per cent.

6. The banks have been and are of great service in the management of the public debt. By their assistance the burden of interest has been reduced from $150,000,000 to $83,000,000 a year, and specie payments have been resumed. Without their aid the treasury would be obliged to employ other and more expensive agencies for

the reception and disbursement of a revenue of $23,000,000 a month.

7. The plan to substitute treasury notes for bank-notes is a plan to withdraw the chief consideration which the banks have received in return for their services to the government. It is a plan, therefore, to break up the National Banking System, and to make Congress permanently responsible for the issue of a credit currency, and the maintenance of proper reserves. No economist or statesman of repute has ever favored such a scheme, and no country committing itself to such a policy has kept its currency at par.

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THE NATIONAL BANKS.

I.

AMERICAN CURRENCY BEFORE THE CIVIL WAR.

THE history of American currency falls naturally into three periods: 1. The era of government paper, ending with the ratification of the federal constitution in 1788. 2. The era of bank paper, from 1789 until 1862. 3. The era of contemporaneous bank and government paper, beginning in 1862 and not yet completed.

The government currencies issued by the colonies and by the Continental Congress went down in such frightful ruin, that the power to issue bills of credit was discarded by the States under the national constitution, and was assumed by the general government only after the lapse of three-quarters of a century, and in the heat and exigency of civil war.

The first of the colonial bills of credit were issued by Massachusetts in 1690, to pay the soldiers engaged in the disastrous expedition of that year against the French in Canada. In the equally disastrous expedition of 1711, New Hampshire, Rhode Island, Connecticut, New York, and New Jersey took part with Massachusetts, and all issued paper-money. Pennsylvania began to issue bills in 1723. In 1729 Benjamin Franklin, then twenty-three years old, published a tract advocating a scheme for a new issue of Pennsylvania bills, to be loaned on mortgages of real estate for terms of sixteen years. The plan was adopted, and Franklin got the contract for printing the bills, which he calls "a very profitable job, and a great help to me."[1] In 1734 Maryland issued bills for £90,600 sterling. Delaware followed the example of her neighbors in 1739. Virginia issued bills for £20,000 in 1755 to meet the expenses of the Braddock expedition, and £40,000 more the same year to pay the bounties for kill-

[1] Franklin's Autobiography, Bigelow's first edit., p. 186.

ing or capturing hostile Indians. The paper-money of North Carolina was at a discount, in 1748, of 10 to 1. In the course of sixty-eight years South Carolina issued bills amounting to £605,000, of which more than two-thirds were loaned on mortgage of real and personal property. In 1760 Georgia authorized an emission of bills of credit, to be let out in the same way.

Some of these bills were payable in sterling at a future date, and consequently depreciated in proportion to the time which must elapse before they could be presented. Others were interest-bearing notes, and their value depended upon the amount of the issue. Others were legitimate treasury notes, issued in anticipation of taxes and receivable for taxes. These, if the taxes were levied and collected for an equivalent amount, were as good as coin unless they had too long to run; and that difficulty was sometimes overcome by offering, in lieu of interest, a premium of 5 per cent. on the notes at the treasury. In no case, however, were the taxes uniformly assigned to protect the notes, and in no case were the notes

permanently maintained at par. The Pennsylvania plan was tried in most of the other colonies—in Rhode Island as early as 1715, when what was known as a "bank" of £10,000 was issued on mortgages of real estate, for ten years, at 5 per cent.[1] In Rhode Island the debtor party were soon in a majority, and dictated extensions and terms of settlement. In Pennsylvania the loan-office was managed with more discretion, but the plan was not carried out according to the original intention. In New Jersey a harsher system was adopted; failure to make payment on the day appointed was taken to be a confession of judgment, and only thirty days were allowed for redemption of the mortgage. Prior to 1751 the bills of credit were generally, though

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[1] It is less than a century since the word *bank* became restricted to its present meaning. Its original signification was an aggregate, sometimes of particles, as in a bank of earth; or of persons, as in the case of a court sitting in banc; or of capital, as Bacon, in his essay on Usury, speaks of a "bank or common stock." Our ancestors called any loan fund by this name, whether issued by the government or contributed by individuals.

not always, made a tender for private debts; but this provision had no perceptible effect to prevent their depreciation.

The result of all these experiments is exhibited in the following table,[1] showing the price of £100 sterling in the colonial currencies of 1748:

New England	£1100
New York	190
Pennsylvania	180@190
Maryland	200
North Carolina	1000
South Carolina	750
Virginia	120@125

The paper of Massachusetts was redeemed in 1750, by the payment of coin, in the proportion here indicated, of 1 to 11. In 1752 Connecticut offered silver for bills in the proportion of 1 to $8\frac{5}{6}$, at the expiration of three years; but new issues were made before the process was completed. In Rhode Island the currency grew worse

[1] This table is given in Jonathan Elliot's compilation, called "The Funding System of the United States," p. 16. Where he found it does not appear. The paper currency of Virginia at this time consisted of warehouse receipts for tobacco, and so had a real, though very unstable, value.

and worse until, in 1770, 6 shillings were offered for £8 in old tenor bills, and so the bills were retired at the rate of 26⅔ for 1 in coin.

During the eight years of the Revolutionary war, from 1775 to 1783, the colonies issued $209,000,000 in bills of credit, and the Continental Congress $242,000,000. The deluge of government paper rose to $451,000,000 for a population of three millions—a hundred and fifty dollars a head.[1] In 1780 the Congress authorized an issue of 5 per cent. certificates, payable in specie in six years, for which the Continental bills were to be taken at the rate of 40 for 1. The certificates, in turn, dropped to one-eighth of their nominal value, and the exchange was never accomplished. The Continental currency became utterly worthless, and has remained a type of worthlessness ever since.[2]

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[1] This is the amount authorized by Congress and by the colonies. It is probable that the issues of Continental money were much larger. See Elliot's Funding System, p. 11.

[2] Professor F. A. Walker's sketch of the colonial paper issues, in his treatise on "Money," includes a good account of the literature of the subject. See

In the spring of 1780 the army at Valley Forge was reduced by the failure of the currency to great destitution, and was on the verge of mutiny. To relieve the necessities of the troops a company of citizens of Philadelphia subscribed £300,000, Pennsylvania currency, "in real money," and formed a bank for the collection and disbursement of this sum. The Congress, accepting this timely aid, promised that the subscribers should be fully reimbursed and indemnified, and in 1781 the company was incorporated under the title of the Bank of North America. The bank went into operation under its charter on the 1st of January, 1782, and before the month of July following had loaned the government $400,000. A large proportion of its capital stock was taken in Holland. The notes were redeemable in Spanish dollars. The bank is still in operation under the national law.

In 1784 the Bank of Massachusetts was chartered, and in the same year the Bank of New York began business without a

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also Sumner's American Currency, and Story on the Constitution," § 1367, *note*.

charter. The Continental currency had ceased to circulate, and values were once more measured by real money. To most people these changes had brought loss; to many, ruin; to many more, great hardship. Stay laws were passed, to postpone the collection of debts; a party arose which demanded new issues of depreciated paper, in order to facilitate the settlement of outstanding obligations. In Massachusetts, Daniel Shay, who had been a captain in the Revolutionary army, headed an open insurrection against the authority of the courts. This was in 1786. Rhode Island issued a new "bank" of £100,000 the same year, and subsequently determined to pay off her whole debt, except the 4 per cents., in paper-money, which was rated at 6 to 1 in gold within three months, 8 to 1 in a year, and 18 to 1 in three years, when it ceased to be a legal tender.[1]

Shay's rebellion was put down by an army of 4000 men under General Lincoln; but this incident disclosed the weakness of

[1] Sumner's American Currency, p. 53.

the confederation then existing, and in 1787 a convention was summoned to meet in Philadelphia for the purpose of framing a general government of the United States. The convention had a wholesome distrust of paper-money. As originally reported, the constitution contained a clause, borrowed from the previous articles of confederation, authorizing the federal government "to borrow money and emit bills on the credit of the United States." Mr. Gouverneur Morris moved to strike out the words "and emit bills." Mr. Ellsworth said it was a favorable moment "to shut and bar the door against paper-money." After a sharp debate, the motion prevailed by a majority of nine States to two:

Ayes—New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia—9.
Noes—New Jersey, Maryland—2.

Mr. Madison, referring to this vote afterward, said he was satisfied that striking out the words would not disable the government from the safe and proper use of public notes, but "would only cut off the

pretext for a paper currency, and particularly for making the bills a tender either for public or private debts."[1]

The first Congress under the constitution provided, in 1789, that the revenues of the United States should be collected in gold and silver. Two years later the bills of the first Bank of the United States were made receivable at the treasury, and under the shadow of this permission the bills of the State banks afterward crept in, with such disastrous consequences that in 1840 the old rule was re-established. Even in the stress of the war of 1861 the rule was steadily maintained, so far as the customs were concerned. For seventy-three years, from 1789 to 1862, the only legal tender for private debts in the United States was coin, and the only paper currency was issued by private corporations, and payable on demand in coin.[2] Nobody imagined that

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[1] Madison Papers, vol. iii. p. 1346. Elliot's Debates on the Federal Constitution, vol. i. p. 276.

[2] Treasury notes were issued during the war of 1812, and again during the crises of 1837 and 1857; but these issues were made for the convenience of the treasury,

the general government would or could return to paper issues. Franklin, in 1783, had recanted his boyish opinions, and lamented "the many mischiefs, the injustice, the corruption of manners, etc., that attend a depreciated currency,"[1] Jefferson, during the war of 1812, when the State banks failed miserably, declared that "the circulating medium ought to be restored to the nation;" but his plan contemplated only an issue of treasury notes as a war measure, bottomed on taxes, and barely sufficient to displace temporarily the gold and silver, which, in that case, would flow out into other countries. "I am not without a hope," he said, "that this great, this sole resource for loans in an agricultural country, might yet be recovered for the use of the nation during war; and if obtained *in perpetuum*, it would always be sufficient to carry us through any

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and were not intended for general circulation. The greatest amount outstanding at any one time was about $10,000,000. The notes were mostly of large denominations, bearing interest, and none of them were receivable for private debts except at the option of the creditor.

[1] Franklin's Works, vol. x. p. 9.

war, provided that in the interval between war and war all the outstanding paper should be called in, coin be permitted to flow in again, and to hold the field of circulation until another war should require its yielding place again to the national medium."[1] This is a foreshadowing of the plan actually adopted by Secretary Chase; but Jefferson's language shows that in his time "this great resource" was commonly regarded as unavailable. Albert Gallatin, Secretary of the Treasury under Jefferson and Madison, from 1801 to 1813, said, in 1831, of Congress, "As this body has no authority to make *anything whatever* a tender in payment of private debts, it necessarily follows that nothing but gold and silver coin can be made a legal tender for that purpose, and that Congress cannot authorize the payment, in any species of paper currency, of any other debts than those due to the United States."[2] Webster said, in 1832, "No State, not even Congress itself, can make anything a tender but gold and sil-

[1] Writings of Thomas Jefferson, vol. vi. p. 141.
[2] Quoted by Sumner, *u. s.*, p. 58.

ver in payment of debts;"[1] and again, in 1836, "The States are expressly prohibited from making anything but gold and silver a tender in payment of debts; and although no such express prohibition is applied to Congress, yet, as Congress has no power granted to it in this respect but to coin money and to regulate the value of foreign coins, it clearly has no power to substitute paper or anything else for coin as a tender in payment of debts and discharge of contracts."[2]

Webster, in 1832, was contending for an extension of the charter of the Second National Bank. The first Bank of the United States had been chartered in 1791, to aid the treasury in the collection and disbursement of the revenue, and in funding the public debt. There were then only three State banks, already mentioned. Before the expiration of the charter of the Bank of the United States, in 1811, eighty-eight State banks had been organized, and were able to prevent a renewal of its privileges. The

[1] Webster's Works, vol iii. p. 395.
[2] *Ibid.*, vol. iv. p. 271.

failure of the national bank to secure a new charter was the signal for a rapid increase in the number of State banks, but the war which began in 1812 and ended in 1815 forced them all into suspension except the New England banks. The treasury was supplied by loans and by the issue of United States notes. The loans were placed at 80 to 88, and this fraction was paid in bank paper worth 10 to 20 per cent. less than par.[1] The interest-bearing treasury notes were depreciated from 8 to 10 per cent., and those which bore no interest, being convertible into 7 per cent. securities, came back as soon as they were issued.[2] Some of the banks received and others rejected the treasury notes, but all increased their own issues. The only way to bring order out of this confusion was by the establishment of a powerful national bank, and the second Bank of the United States was chartered in 1816 and went into operation in 1817, but too late to prevent the crash which followed. Specie

[1] Treasury Report, Sept. 23, 1814. See also Finance Report, 1876, p. 199. [2] Finance Report, 1875, p. 193.

payments were resumed, but the State banks began to fail in 1818, and in 1819 there was another general suspension, lasting for two years. The national bank itself was very nearly carried down, but finally weathered the storm. Its commanding influence repressed the excessive issues of the State banks. Ten years of almost unbroken prosperity followed. The national debt was paid, and the stock of the Bank of the United States rose to a premium of 20 per cent.

In 1832 a bill granting a new charter to the national bank passed both houses of Congress, but was vetoed by President Jackson, whose election the bank had imprudently opposed. Other attempts were made to prolong the existence of the bank, but they all failed, and on the last day of 1836 the charter expired. The second Bank of the United States had become a political machine, and deserved to perish; nevertheless, it had rendered important services to the country, and the government lost not a dollar by either of these institutions, but received from the bank of 1791

a net profit of $1,137,152, and from the bank of 1817, a net profit of $6,093,167.[1]

The government deposits had been removed from the Bank of the United States in 1833, and were distributed among the State banks, which proved to be less faithful custodians. In 1836 the signs of an approaching crisis were already visible. Confidence, excited by a long course of successful adventure, had grown too bold. The controlling influence of the national bank had been removed at the very moment when it was once more needed. A gigantic land speculation was in progress, and the cotton trade was expanding. The speculation in real estate exploded in 1837, but the banks escaped by a general suspension of specie payments. The South wanted more money for the cotton trade, and in 1838 Mississippi issued bonds for $5,000,000 to found a new bank. In 1839 came the second shock, which the banks were no longer able to resist. Out of 850 banks, 343 closed entirely and 62 partially.[2] The

[1] Finance Report, 1876, pp. 122, 127.

[2] Sumner's American Currency, p. 152. Many of

Mississippi debt was repudiated. The government lost two millions of its deposits. In 1840 Congress passed an act establishing a sub-treasury in New York, providing that the officers of the government should keep the public funds in their own custody, and declaring that coin alone should be received in payments to the United States. Bank-notes were no longer to be received or paid out at the treasury.

The State banks, prior to 1839, for the most part, justified Benton's graphic description: "Banks of moonshine, built upon each other's paper, and the whole ready to fly sky-high the moment any one of the concern becomes sufficiently inflated to burst."[1] They were not founded on real capital, but upon the notes of the share-holders, who in turn borrowed the notes of the banks. They kept no adequate reserves of coin. There was no general sys-

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the banks which escaped in 1839 went down afterward. In 1841 fifty-five banks failed, with an aggregate capital of $67,000,000, which was almost wholly lost. Elliot's Funding System, p. 1176.

[1] Thirty Years in the United States Senate, vol. ii. p. 51.

tem of redemption. Their plan of operations was to issue as many notes as possible, and to prevent them from returning for payment, by every device that could be contrived. In point of fact, the currency which they issued was not convertible, though it professed to be. There was no proper supervision by State officers, no collection even of authentic statistics. Several of the Western States owned State banks, and it was decided by the Supreme Court that, although no State could emit bills of credit, a State might own all the stock of a bank, appoint the directors, authorize the emission of notes, and make them receivable for public dues, provided that the capital should be paid in and the bank be held to answer all complaints in the courts.[1] How indispensable banking facilities were to the business of the country, was shown by the patience with which these makeshifts were endured, although they failed in every emergency. They were, at least, better than nothing—like the log which is

[1] Supreme Court Reports, 11 Peters, 257. Brisc e *vs.* The Bank of the Commonwealth of Kentucky.

felled across a stream and serves for a bridge until the freshet comes.

After the collapse of the banks in 1839 industry was prostrated for four years. The machinery of traffic had broken down, and had to be reconstructed. Gradually the banks were re-established on a better basis. In New England the Suffolk Bank, by punctually sending home for redemption all the bills which came to its counter, and refusing to take those which were not promptly redeemed, had already created the feeling of responsibility which is the beginning of sound banking. In New York the Legislature, in 1840, required the banks to redeem their notes at agencies in New York city, Albany, or Troy. The New York banks were required also to secure their circulation by deposits of stocks; but as it was found that many of them deposited cheap and worthless bonds, the law was amended in 1849 so as to require at least half the securities to be New York State bonds and the rest United States bonds. Under these conditions, any persons who chose could engage in banking in New

York. As the banks recovered, business revived, and speculation presently took a new direction. A rapid absorption of capital in railroads began in 1849. In that year, 1369 miles of railroads were built. The annual increase did not again fall below 1000 miles until 1861. In 1853 it was 2452 miles; in 1856 it was 3647. In 1857 the Ohio Life and Trust Company went down in August, with liabilities of $7,000,000. The company had borrowed largely on call in New York, and had placed the funds where they were not immediately available. A panic ensued, and in October the banks throughout the country were compelled to suspend payments. They should have been able to relieve the pressure for money by expansion, but they were found to be already employing their utmost resources, and increased the alarm by closing their doors. The suspension lasted only about two months; but the country had not fully recovered from the consequent depression when the civil war broke out in 1861.

II.

THE BANK ACT OF 1863.

In January, 1861, the paper currency of the United States was furnished by sixteen hundred private corporations, organized under thirty-four different State laws. The circulation of the banks amounted to $202,000,000, of which only about $50,000,000 were issued in the States which in April, 1861, undertook to set up an independent government. About $150,000,000 were in circulation in the loyal States, including West Virginia.

When Congress met in extraordinary session on the 4th of July, the three-months volunteers, who had hastened to the defence of the capital, were confronting the rebel army on the line of the Potomac, and the first great battle at Bull Run was impending. President Lincoln called upon Congress to provide for the enlistment of

400,000 men, and Secretary Chase submitted estimates for probable expenditures amounting to $318,000,000. The treasury was empty, and the expenses of the government were rapidly approaching a million dollars a day.

The ordinary expenses of the government, during the year ending on the 30th of June, 1861, had been $62,000,000, and even this sum had not been supplied by the revenue, which amounted to only $41,000,000. The rest had been borrowed. It was now necessary to provide for an expenditure increased fivefold, and amounting to eight times the income of the country. Secretary Chase advised that $80,000,000 be provided by taxation, and $240,000,000 by loans; and that, in anticipation of revenue, provision be made for the issue of $50,000,000 of treasury notes, redeemable on demand in coin. "The greatest care will, however, be requisite," he said, "to prevent the degradation of such issues into an irredeemable paper currency, than which no more certainly fatal expedient for impoverishing the masses and discrediting the

government of any country can well be devised."[1]

The desired authority was granted by Congress. The Secretary was authorized to borrow, on the credit of the United States, not exceeding $250,000,000, and "as a part of the above loan," to issue in exchange for coin, or pay for salaries or other dues from the United States, not over $50,000,000 of treasury notes, bearing no interest, but payable on demand at Philadelphia, New York, or Boston. The act does not say, "payable in coin," for nobody had then imagined that any other form of payment was possible.

Congress adjourned on the 6th of August, after passing an act to provide an increased revenue from imports, and laying a direct tax of $20,000,000 upon the States, and a tax of 3 per cent. upon the excess of all private incomes above $800. The Secretary immediately invited the banks of Philadelphia, New York, and Boston to assist in the negotiation of the proposed loans,

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[1] Congressional Globe, 1861. Appendix, p. 6.

and they loyally responded. On the 19th of August they took $50,000,000 of three years 7.30 bonds at par; on the 1st of October, $50,000,000 more of the same securities at par; and on the 16th of November, $50,000,000 of twenty years 6 per cents., at a rate making the interest equivalent to 7 per cent.

These advances relieved the temporary necessities of the treasury, and, when Congress reassembled in December, Secretary Chase was prepared to recommend a permanent financial policy. The solid basis of this policy was to be taxation. All the ordinary expenses of the government, the Secretary urged, should be paid by the annual revenue, together with the interest on the public debt, and a sinking fund should be provided for the gradual extinction of the principal. For these purposes, it was estimated, a revenue of $90,000,000 would be needed; and to secure that sum, the Secretary advised that the duties on tea, coffee, and sugar be increased; that a direct tax of $20,000,000 be assessed on the States; that the income tax be modified so as to

produce $10,000,000, and that duties be laid on liquors, tobacco,carriages, legacies, bank-notes, bills payable, and conveyances. For the extraordinary expenses of the war it was necessary to depend upon loans, and the authority to be granted for this purpose the Secretary left "to the better judgment of Congress," only suggesting that the rate of interest should be regulated by law, and that the time had come when the government might properly claim a part, at least, of the advantage of the paper circulation, then constituting a loan without interest from the people to the banks.

There were two ways, Secretary Chase said, in which this advantage might be secured: 1. By increasing the issue of United States notes, and taxing the bank-notes out of existence. 2. By providing a national currency, to be issued by the banks but secured by the pledge of United States bonds. The former plan the Secretary did not recommend, regarding the hazard of a depreciating and finally worthless currency as far outweighing the probable benefits of the measure. The second plan, he said, would

create a large demand for government securities, affording increased facilities for procuring means for the prosecution of the war, and keeping down the rate of interest on the public debt; and at the same time would give the people a safe and uniform paper currency, without disturbing the existing organization of business. He expressed a favorable opinion of this plan with the greater confidence because it was no untried theory, but had been subjected in New York, and in one or two other States, to the test of experiment, and had been found practicable and useful.

Congress had hardly begun to consider these recommendations, when the situation was completely changed by the suspension of specie payments, on the 28th of December, by the banks of New York, followed by the suspension of the other banks in the country, and compelling the treasury also to suspend. This suspension was the result of a panic occasioned by the shadow of war with England, then impending darkly over the sufficiently gloomy prospect of the civil war. The British government, on

the 30th of November, had demanded the liberation of the Confederate ambassadors, Mason and Slidell, taken forcibly from a British steamer by Captain Wilkes, of the United States Navy, and had also demanded an apology for the act. This despatch arrived in December, after the publication of the annual report of the Secretary of the Navy expressly commending Captain Wilkes for his prompt and decisive action, and asserting that his generous forbearance, in not capturing the vessel conveying these public enemies, must not be considered a precedent for the treatment of neutrals subsequently offending in the same way. The press and the people of the United States had generally justified the seizure of the ambassadors, and it was believed that the British government was resolved to force a quarrel by making demands which could not be complied with. Mr. Seward skilfully evaded the difficulty. He surrendered the prisoners, who were not worth fighting about, and without any formal apology, made the truthful explanation that Captain Wilkes had acted for himself, without instructions

and without wrongful motive. Mr. Seward's note was written on the 27th of December and acknowledged by Earl Russell on the 10th of January, but meanwhile a general suspension of specie payments had taken place, and the notes of the government had gone to protest.

To provide for the pressing wants of the treasury, Congress, on the 12th of February, 1862, authorized the issue of $10,000,000 more of demand notes. Before the end of the session further issues were provided for, making the aggregate of United States notes $300,000,000, besides fractional currency. There was a long debate upon the propriety of making these notes a legal tender for private debts, and it seemed for a time that the measure would be defeated by this dispute. Secretary Chase finally advised the concession of this point;[1]

[1] This reluctant concession was a grave mistake, as Chief-justice Chase afterward confessed. In his dissenting opinion on the Legal Tender cases (12 Wallace, 576), he says that the Secretary "was extremely and avowedly averse to this clause, but was very solicitous for the passage of the bill," and was finally persuaded that it was better to take the risk of mak-

nevertheless, 55 votes in the House of Representatives, including those of Mr. Conkling of New York, Mr. Lovejoy of Illinois, and Mr. Morrill of Vermont, and in the Senate 17 votes, including those of Mr. Anthony, Mr. Collamer, Mr. Bayard, and Mr. Fessenden, were recorded against the provision making the notes a tender for private debts. Congress also empowered the Secretary to borrow $500,000,000 on 5-20 year 6 per cent. bonds, besides a temporary loan of $100,000,000, and provided that the interest on the bonds should be paid in coin, and that the customs should be collected in coin for that purpose. Nothing was said about the principal, for it was taken for granted that specie payments would be resumed before the payment of the principal of the debt would be undertaken.

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ing the notes a legal tender than to lose the use of them in the emergency then existing. "Examination and reflection under more propitious circumstances," he continues, "have satisfied him that this opinion was erroneous, and he does not hesitate to declare it."

Congress had thus adopted the plan which the Secretary of the Treasury did not recommend, and neglected the proposition which he preferred. During the discussion of the loan bill, in February, Mr. Hooper, of Massachusetts, had spoken of three measures, which formed a comprehensive system of financial legislation, to wit, the loan bill providing for an issue of legal tender notes convertible into 6 per cent. bonds, the tax bill providing for a revenue of $150,000,000, and the banking law providing for a national currency secured by the deposit of United States bonds; but Mr. Stevens made haste to say that this last proposition had not been approved by the committee on ways and means, and Mr. Conkling deprecated the policy of preaching a crusade against the State banks, and arraying prejudices and votes on that question. Toward the close of the session, in July, Mr. Hooper introduced a bill to provide a national currency secured by a pledge of United States bonds, but the bill was not reported from the committee to which it was sent, and a motion to print extra cop-

ies for the information of the House was laid on the table.[1]

When Congress met in December, 1862, the magnitude of the war had become fully apparent. Farragut had forced the Mississippi from the south; New Orleans had fallen; the river was open to Vicksburg from the Gulf; Grant had broken the Confederate lines on the north, and Foote, with his fleet of gun-boats, had moved down the river to Memphis; the whole Atlantic coast of the Confederacy was blockaded by the Federal navy; McClellan had been driven back from Richmond, but had defeated Lee in turn at Antietam; on every side the Confederacy was beleaguered by an immense cordon of armies and fleets.

The enormous demands upon the treasury for these operations had exhausted the resources provided by Congress. The disbursements in November amounted to $59,847,077—two millions a day. Unpaid requisitions had accumulated amounting to $46,000,000. The total receipts for the year

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[1] Congressional Globe, July 15, 1862, p. 3362.

then current, ending June 30, 1863, were estimated at $511,000,000; the expenditures at $788,000,000; leaving $277,000,000 to be provided for.

There were only two ways to obtain this sum—by a fresh issue of United States notes, or by new interest-bearing loans. But the gold premium had advanced in October to 34; the notes were already at a discount of 25 per cent. The consequences of an addition of $277,000,000 to the volume of currency, the Secretary said, would be "inflation of prices, increase of expenditures, augmentation of debt, and, ultimately, disastrous defeat of the very purposes sought to be obtained by it." He therefore recommended an increase in the amount authorized to be borrowed on the 5-20 bonds; and in order to facilitate the negotiation of the bonds, he advised the repeal of the provisions requiring them to be sold at par, and making United States notes convertible into bonds at the will of the holder. The latter provision, he said, prevented the bonds from rising above par in currency, and the former left no margin of profit for

buyers of large amounts. In order to create a market for the bonds, he again recommended the creation of banking associations under a national law requiring them to secure their circulation by a deposit of government bonds.

The suggestion thus renewed was not received with favor by Congress. It seemed a high-handed proceeding to seize upon the capital of the banks and compel them to invest it in government bonds, as the sole condition on which they should be permitted to retain their circulation. Congress at this session had to provide for the conscription of recruits for the armies, but hesitated to order a conscription of bank capital. On the 7th of January Mr. Hooper offered again his bill to provide a national currency, secured by a pledge of United States bonds, but the next day Mr. Stevens, of Pennsylvania, submitted the bill with an adverse report from the committee on ways and means. On the 14th of January Mr. Stevens reported a resolution authorizing the Secretary of the Treasury to issue $100,000,000 more of United States notes

for the immediate payment of the army and navy. The resolution passed the House at once, and the Senate the next day. It was so much easier to authorize an issue of notes than to levy upon the capital of the nation! The choice was then to be made, as Secretary Chase had distinctly pointed out, between an irredeemable paper currency and a series of measures looking to a safe and gradual return to gold and silver as the only constitutional measure of values; and at this critical moment Congress was about to take the wrong course.

On the 19th of January President Lincoln sent a special message to the House, announcing that he had signed the joint resolution authorizing a new issue of United States notes, but adding that he considered it his duty to express his sincere regret that it had been found necessary to add such a sum to an already redundant currency, while the suspended banks were still left free to increase their circulation at will.[1] He warned Congress that such a

[1] Congressional Globe, January 19, 1863, p. 392.

policy must soon produce disastrous consequences, and the warning was effective. On the 25th of January Senator Sherman offered a bill to provide a national currency, differing in some respects from Mr. Hooper's in the House. The bill passed the Senate on the 12th of February, 23 to 21, and the House on the 20th, 78 to 64. It was by such small majorities, under the pressure of public necessity and at the urgent and repeated solicitation of the Secretary of the Treasury, supported by a special message from the President, that the bill became a law. It was signed by the President on the 25th of February, 1863.

III.

CONGRESS AND THE STATE BANKS.

In spite of the hesitation of a reluctant Congress, Secretary Chase had at last secured the organization of banking associations under a national law. The necessity was imperative. Under the act of 1840,

creating the sub-treasury, it was required that all payments to or from the United States should be made in coin, and no money belonging to the government could be deposited in any bank. After the suspension of specie payments, in 1861, it had been necessary to provide some substitute for the coin, which had disappeared from circulation, and United States notes had been issued for that purpose. These notes were receivable for all taxes except customs, and for United States bonds, but they had speedily depreciated; the premium on gold in February, 1863, was over 50 per cent.; it was perceived also that the suspended banks were increasing their issues. The banks had applied to Secretary Chase in January, 1862, to receive their notes in payment for the bonds which he was compelled to sell. To have accepted this proposition would have been to repeat the error of 1812, and invite an immense inflation of bank currency. The Secretary declined to recommend this course; nevertheless the circulation of the banks increased from $130,000,000 in November, 1861, to $167,000,000 a year

later.[1] It was plain that this dangerous tendency must be checked, and that the banks, instead of rivals, must be made co-adjutors of the government.

The banks had generally aided the government as liberally as could have been expected. They had furnished means for the equipment of troops by the States, and had negotiated United States bonds to the amount of $150,000,000 in the outset. But in February, 1862, upon the failure of the negotiation with Secretary Chase, some of the New York banks had refused to receive the demand notes of the government at the clearing-house, and this unwise demonstration had been used as an argument in favor of the clause in the loan bill of 1862, making the treasury notes a legal tender.

A bill to provide for the organization of national banking associations had been printed in January, 1862, for the use of the committee on ways and means, but did not get beyond the committee at that session.

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[1] Finance Report, 1862, p. 14.

Mr. Spaulding, of New York, said that the committee had concluded that the measure, if adopted, could not be made available in season for the immediate necessities of the government. Mr. Roscoe Conkling, then in the House, asked whether it was expedient to make war upon the twelve hundred banks in the free States, and whether it was right, even if the stock and assets of those banks were not largely owned by orphans and widows. Mr. Conkling proposed to issue $250,000,000 of 7 per cent. bonds, payable in thirty-one years, to be exchanged for the bills of the suspended banks of New York, Boston and Philadelphia, and $200,000,000 of United States notes payable in coin in one year. How the coin was to be obtained he did not explain.

Mr. Bingham, of Ohio, made a vigorous rejoinder, protesting against Mr. Conkling's attempt to lay the power of the American people over their currency at the feet of brokers and city bankers; and Mr. Kellogg, of Illinois, expressed some contempt for talk about the sacredness of capital when

600,000 of the flower of American youth had been summoned to service in the army.

These, however, were merely passing allusions to the Secretary's recommendation. The serious debate began a year later, in February, 1863. Senator Sherman's bill was then maturely considered in both Houses.

Senator Harris, of New York, predicted that no New York bank would surrender its State charter in order to avail itself of the provisions of the national act. Senator Collamer, of Vermont, declared that the people would not break up their system of banking, interwoven with all their transactions, to establish national banks, nor would they buy United States bonds for that purpose. At that very moment the banks of New York held United States securities amounting to $148,000,000 — $40,000,000 more than their entire capital.[1] Senator Powell said that the people of Kentucky preferred their State banks, and that intelligent merchants and bankers everywhere

[1] Mr. Fenton, of New York, made this statement in the House. Cong. Globe, Feb. 19, 1863, p. 1118.

were opposed to the new scheme. He had met no business man, he said, who favored the bill, and he had talked with many. For his part, he preferred to allow the bills of solvent banks to be received and paid out at the treasury.

A substantial part of the measure was a section in the revenue bill, then pending, proposing to levy a tax of 2 per cent. on the circulation of the State banks. Mr. Conkling made a vehement argument against this section in the House, contending that Congress had no power, under color of taxation, to destroy franchises lawfully granted by the States. The New York Superintendent of Banks, in his report then newly published, threatened to meet any attempt to override the State law by an injunction; but the State court, when the question came up, sustained the authority of Congress in the premises.[1] The constitutional question was raised by a number of speakers in both houses, and Representative

[1] Superintendent Van Dyck's report is reprinted in the treasury report on the condition of the banks in 1863, where see p. 88.

Noell, of Missouri, moved a reference of the bill to the committee on the judiciary, with instructions to investigate this point, but the majority thought the inquiry unnecessary, and the matter was left to the courts with the result just mentioned.

The project was derided as impracticable for various reasons. Senator Henderson, of Missouri, thought the government bonds might depreciate, so as to afford insufficient security for the circulation. Senator Davis, of Kentucky, objected to the depreciated basis of the system, the United States notes in which the bank-bills were to be redeemed. Representative Harrison, of Ohio, feared that the supervision of the banks, at Washington, would be inefficient. Representative Baker, of New York, found no provision for redemption of the notes, except at the counters of the banks, and thought this circumstance would produce a crop of out-of-the-way banks, with a circulation not intended to be redeemed. On the other hand, he was sure that the banks could make no profits under the proposed law, and so the measure would fail. In this

opinion he was sustained by several others, including Senator Collamer, who nevertheless pronounced the scheme a "pecuniary revolution."

On the other hand, Mr. Stevens, of Pennsylvania, a year before, had objected that the banks would earn a double interest on their capital; and Senator Carlile, of Virginia, now made an ingenious estimate, showing how a banking association, with $6000 in gold, by investing and reinvesting their bills in bonds, might get back $6000 in gold interest in a year without lending a dollar to the public.[1] Senator Collamer

[1] This idea was afterward elaborately worked up in a letter published in the Seymour (Indiana) *Times* in 1878. The letter purported to be written by one James O'Neal, who said that, beginning with a capital of $100,000, he had started ten banks in as many States during the ten years from 1865 to 1874, buying bonds for each new bank with the bills issued upon his previous deposit, and had realized a profit of $2,000,000 from the interest upon the bonds so acquired. Such a series of transactions would have been unlawful, and in fact, impossible; but the letter was widely copied, and was finally brought to the notice of the Comptroller of the Currency, who reported that the name of James O'Neal did not appear upon the list of stockholders of any bank in any of the ten States named.

also pointed out the comparative advantage of issuing United States notes for nothing, instead of paying the banks 6 per cent. interest, less 2 per cent. tax, for issuing their notes. Senators Collamer and Davis agreed that the Secretary of the Treasury would acquire a formidable political influence by his control over an organization so powerful and so widely distributed.

Some of these objections are contradictory; some are specious inventions to cover the one predominant motive—the natural reluctance of many members to incur the displeasure of the moneyed institutions of their own States and districts. Senator Powell was undoubtedly right in his opinion that the bankers and merchants were generally opposed to the scheme. "I oppose the bill," said Senator Howard, frankly, "because it is likely to wage a very unnecessary, and, I fear, dangerous war upon the State institutions; and I oppose it because I deplore the contest which will probably arise out of it in our local politics."

The opposition of most bankers was nevertheless tempered by the patriotic feeling

expressed in this admirable letter, read by Mr. Fenton, of New York, during the discussion in the House :[1]

Regarding the banking system of this State [New York] as in all respects the best of which I have any knowledge, I would much regret the necessity for any radical change of it. I think the scheme proposed by Secretary Chase would inevitably destroy the local banks, and of course mine would share the common fate. Nevertheless, if, in the judgment of our law-givers, that, or some other scheme kindred to it, is necessary to meet the wants of the government in crushing out the rebellion, I will endeavor to submit to it with becoming spirit. These are times of trial for us all, and I trust I should not be found so selfish as to oppose any measure demanded by the public good, merely because its operation involved a personal hardship.

The argument in reply to this and other misapprehensions, was threefold :

1. That the government needed the market which would thus be created for the bonds, and must protect itself against inflation.

2. That the banks were not to be injured but benefited by receiving a currency which could be used in transactions with the government instead of one which could not, and would enjoy the additional advantage of government deposits.

3. That the people would secure a uniform and safe currency.

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[1] Congressional Globe, Feb. 19, 1863, p. 1119.

Senator Chandler pointed out the fact that the proposed transaction with the banks was not paying them 4 per cent. for furnishing a circulating medium, but borrowing $300,000,000 of them at 4 per cent. Senator Sherman added, that the creation of a demand for $300,000,000 in bonds would raise the market value of all the bonds. Mr. Sherman also showed that the time had come to decide finally between a permanent system of finance or a volume of paper-money limited only by the exigencies of the war. Gold and silver had disappeared. The danger of an excessive issue of United States notes was emphasized, he said, by the pending proposition of the House to print $300,000,000 more—a proposition which had sent the premium on gold flying upward 30 per cent. The danger was heightened by the natural disposition of the suspended banks to increase their circulation. The plain remedy was to limit the volume of United States notes resolutely, and to take control of the bank issues, and keep them within bounds.

Representative Hooper repeated the finan-

cial history of the war of 1812, when the government used the bills of suspended banks, selling bonds as low as 80, and taking, at this rate, bank bills 20 or 25 per cent. below par.

A great part of the argument in favor of the bill was intended to remove the impression that the measure was conceived in a spirit of hostility to the banks.

Mr. Spaulding said that his chief reason for supporting the bill was because it proposed to provide a permanently improved bank currency. Mr. Fenton called attention to the superiority of a currency wholly secured by United States bonds, to any currency before known. In 1861, he said, only $30,000,000 were secured out of $200,000,000 of bank circulation. In 1862, only $40,000,000 were secured out of a volume of $167,000,000 in the loyal States. It was an easy matter to show the superiority of notes circulating everywhere at a uniform value to bills resting solely on local corporate credit, and circulating only in the neighborhood of the makers. Senator Sherman also called attention to the

fact that the notes of all but 463 banks out of 1409 in 1856, and all but 253 out of 1500 in 1862, had been counterfeited. The great variety of devices made it difficult to detect counterfeits. The adoption of a uniform series of national notes would be a great help in this respect.

After all was said, the choice was made of a uniform national currency, based upon public credit in tangible form, strictly limited in amount, and subject to the closest supervision, for the protection of the community. The bill passed; the proposed issue of United States notes was cut down one-half;[1] and Congress adjourned.

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[1] This made $450,000,000; but $50,000,000 were intended and used as a reserve for the payment of the temporary loan on demand. The amount outstanding was limited to $400,000,000. See p. 72.

IV.

THE ACT OF 1864.

THE effect of the bank act of 1863 upon the public credit was speedily apparent. Within a week after its passage the bonds of the United States, for which a new market had thus been created, advanced from 93 to par in currency. The sale of the 5-20 bonds proceeded so rapidly that, within two months after the adjournment of Congress, the whole mass of suspended requisitions had been paid, all current demands had been promptly met, and full provision had been made for the payment of the army and navy. During the remainder of the year no serious difficulty was found in providing for the enormous expenditures of the government. The treasury report in December declared that the bank act had "at once inspired faith in the securities of the government, and, more than any other one cause, enabled the Secretary to

provide for the prompt payment of the soldiers and the public creditors."

The financial policy of the government was at last established in all its main features. Nothing more was needed, except the correction of some matters of detail. The revenue from customs was all that had been expected. The machinery for collecting internal revenue was still new; the results were not satisfactory; and the law needed revision. No change was desired in the character of the loans authorized by Congress, unless perhaps permission should be granted to borrow money for forty years instead of twenty. The Secretary thought it clearly inexpedient to increase the amount of United States notes beyond the limit of $400,000,000, already established. "Additional loans in this mode," he said, "would almost certainly prove illusory; for diminished value could hardly fail to neutralize increased amount." If proper means should be adopted to induce the prompt conversion of the State banks into national banking associations, the Secretary thought that all the money needed for the prosecution of

the war could be borrowed on reasonable terms, while the ordinary expenses and interest on the public debt would be more than covered by the revenue.

The bank act had not gone into full operation. The printing of the bills had only just begun in November, and none had been delivered. The whole number of associations organized under the act prior to the 29th of November was only 134, with a little over $16,000,000 capital, though many others were in process of organization. But credit is confidence, and confidence is only another word for faith—the evidence of things not seen. The government had shown a purpose to put a limit to the paper inflation, and to call upon the banks to support the treasury with their collective capital; and the manifestation of this purpose had instantly strengthened the public credit.

The Comptroller of the Currency, Mr. McCulloch, afterward Secretary of the Treasury, found the act of 1863 not altogether symmetrical in its arrangement, and obscure if not inconsistent in some of its provisions.

He therefore recommended many changes in detail, and to this work of revision Congress, in March, 1864, addressed itself. The result, after more than two months of deliberation, was the act of June 3d, 1864, which remains upon the statute book substantially unchanged since that date.

Many of the banks were still unreconciled to the change. The New York bankers, belonging to the Clearing-house Association, had a long hearing before the committee on ways and means. They were opposed to the law from the beginning, they said, but if it was to stand, they wanted it as free from objection as possible. They thought, in the first place, that the office of the comptroller of the currency should be removed from Washington to New York, and that the comptroller, instead of remaining a subordinate officer under the secretary of the treasury, should be made the head of an independent department. Mr. Pruyn, of New York, afterward made the same suggestion in the House, but it was disregarded. The bankers also desired to have the law so modified as to admit existing

banks, with their outstanding circulation, and no others. When this plan was mentioned in the Senate, Mr. Sherman showed that it was practically a proposition to give the existing banks a monopoly of the banking business. It was also a proposition to recognize and authorize their extravagant issues of suspended paper. Mr. Hooper, in the House, gave a list of 25 banks in New York, New Jersey, Pennsylvania, Delaware, Indiana and Ohio, with a combined capital of $1,932,968, and a circulation of $5,998,688. Under the national law, this circulation would have to come down to less than $1,800,000.

Mr. James Gallatin brought the influence of an honored name to the support of these propositions. His father, Albert Gallatin, had been secretary of the treasury under the third and fourth Presidents, and the son had inherited a reputation for financial wisdom. He had suggested, when Secretary Chase offered the 7.30 bonds to the New York banks, in 1861, that Congress should be called together to authorize a higher rate of interest. It was by his advice that

the New York banks suspended specie payments, in order, as he argued, to save the specie which would otherwise be borrowed and spent by the government. He had afterward endeavored to persuade Secretary Chase to receive for government loans the depreciated paper of the suspended banks. Failing in this attempt, he had thrown himself into opposition to the whole policy of the government, and had written a pamphlet contending that it would have been possible, if the finances had been wisely administered, to have carried on the war on a specie basis. This was, no doubt, true; but the die had then been cast, and the banks themselves had set the example of suspension.

The most strenuous opposition was made to the imposition of a national tax upon the circulation of the State banks. The protest of Mr. Andrews, President of the State Bank of Ohio, was read in the House. Mr. Andrews argued that the tax was unjust and oppressive, since it imposed a penalty for doing what was lawful to be done, and could not be undone save by the slow

process of retiring the notes in the course of business. He therefore asked that the tax should be imposed only on notes issued under State authority after the passage of the law, or at least be postponed, so as to allow them to be withdrawn from circulation.

The subject of taxation was, in fact, the principal matter of debate. Mr. Brooks, of New York, explained with sufficient frankness the wishes of the minority. "What we desire," he said, "is to do away with the $300,000,000 of bank currency, and that if the government desires more currency, it be legal tender currency." Mr. Stevens, of Pennsylvania, responded, "I myself would prefer legal tender to the circulation of these banks, either State or national." In the same spirit Senator Henderson, of Missouri, inquired, "Why not permit the secretary of the treasury to go on and issue legal tender notes?" One reason was, because all the channels of circulation were full of suspended bank paper. The ordinary limit to bank issues, convertibility into coin on demand, had been taken away, and

no other had been established, except the limit proposed by the national bank act and by taxation of the circulation of the State banks.

On the 18th of April two test votes were taken in the House. A resolution offered by Mr. Holman, of Indiana, instructing the committee on ways and means to report a bill to repeal the bank act of 1863, was defeated, 40 to 60; and a resolution affirming that the expansion of bank currency should be repressed, by taxing the issues of the State banks, was adopted, 62 to 46. This was a logical consequence of the bank act, as Senator Fessenden had shown a year before, in his reply to Senator Harris, of New York, who voted for the act of 1863 but argued against the taxation of the State banks. "He is willing to establish the new system," said Mr. Fessenden, "because it is necessary to support the government; but he is not willing to put it in operation, for fear it will injuriously affect private interests."

Another question arose concerning the taxation of the national banks by the States.

Secretary Chase thought the banks should be exempted from State taxation, not in order to relieve them from their share of the public burdens, but in order to secure to the general government all the revenue from this source, for the benefit of the national credit. Mr. Kernan, of New York, Mr. Eldridge, of Wisconsin, and Mr. Holman, of Indiana, rather unfairly denounced this feature of the bill as a monstrous proposition to exempt the banks from any taxation. Mr. Stevens, of Pennsylvania, went quite as far the other way, declaring that the faith of the country was pledged to the immunity of the bonds from local taxation, and that as the bank capital was to be invested in bonds, the real estate of the banks and the investments of the share-holders should be protected by the government. Mr. Sumner made an elaborate argument in the Senate, to show that the decision of the Supreme Court, denying to the State of Maryland the right to tax the bank of the United States without authority from Congress, would go to the length of prohibiting Congress itself from granting such author-

ity. Senator Chandler gave his opinion, as a practical banker and practical business man, that every national bank in Michigan would wind up its affairs in thirty days if they were required to pay local taxes. In spite of these arguments, and in opposition to the weighty opinion of Secretary Chase, the better judgment of Congress decreed that the national banks should be, as the State banks had been, subject to taxation at home.

Other features of the bill were criticised. Mr. Brooks declared that the scheme contemplated a return to the pet bank system of 1836–'37. Mr. Pruyn regarded the act as a great stride toward despotic power. Mr. Boutwell offered an amendment to prevent the secretary of the treasury from making the banks depositories of public money. Mr. Steele, of New York, thought the law contemplated a dangerous association of capital. Senator Davis avowed the deepest hostility to this Briarean paper monster. Senator Henderson declared that John Law's plan was infinitely better, since that had at least a basis of 20 per cent. in coin;

and that in less than ten years this system would be less tolerable in the eyes of Americans than the Mississippi bubble in the eyes of the French.

It was no longer contended that the banks would not organize under the national law. They had so organized, and were organizing in every Northern State, and there was one even in New Orleans. This fact was a new source of alarm to some gentlemen. Mr. Mallory, of Kentucky, reckoned up a double profit of 6 per cent. on bonds, and 12 per cent. on loans, with other pickings, giving the banks an annual return of 20 or 22 per cent. on their capital stock. Mr. Ward, of New York, was afraid that these advantages would attract capital into banking, and that a superabundance of bank funds would stimulate speculation. Mr. Law, of Indiana, offered an amendment requiring the banks, after accumulating a surplus of 20 per cent., to turn all their profits over 8 per cent. per annum into the treasury for the benefit of the pension fund. Senator Cowan, of Pennsylvania, rehearsed the calculation of Sen-

ator Carlile, a year before, showing how a so-called bank might invest its capital in bonds, draw out 90 per cent. in bills, reinvest the bills in bonds, increasing its circulation *pro rata*, and so continue, obtaining an income of 30 per cent. without performing any service to the community as a bank. Mr. Cowan himself, however, replied to this suggestion, admitting that the operation could not go on without the knowledge and guilty consent of the comptroller of the currency.

The bill passed the House on the 18th of April, 78 to 63, and the Senate on the 10th of May, 30 to 9. There was a disagreement on some of the amendments, and a committee of conference was appointed, who finally secured an agreement on the 31st of May. The act was approved on the 3d of June.

Congress, at this session, also imposed a tax of ½ per cent. per annum on the deposits, ½ per cent. on the capital, and 1 per cent. on the circulation of all State banks, and 2 per cent. additional on the excess of their circulation above 90 per cent. of their capital. It was provided in the loan bill

that the interest-bearing notes of the government should not be legal tender for the redemption of bank-notes. Finally it was solemnly declared, in the same act, that the total amount of United States notes, issued or to be issued, should never exceed $400,000,000, and such additional sum, not exceeding $50,000,000, as might be transiently required for the redemption of the temporary loan.

It was fourteen years before any serious attempt was made to repeal this wise restriction and unsettle the system thus established.

V.

ANALYSIS OF THE NATIONAL BANKING LAW.[1]

THE business of the national banks, as defined by the statute, is discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; buying and selling exchange, coin and bull-

[1] Revised Statutes of the United States, §§ 5133–5243.

ion; loaning money on personal security; receiving deposits; and issuing and circulating notes. They may also be designated as depositories of the public moneys, except receipts from customs, or employed as financial agents of the government; and in such cases they are to furnish security by depositing United States bonds and otherwise. Every association organized for these purposes is permitted to continue its business for twenty years from the date of its organization, but no such association may engage in general trade or commerce, or hold real estate, except a banking-house, or real property taken for debt, which must be sold within five years.

The business is to be managed by a board of not less than five directors, who must own at least ten shares apiece of the stock, unencumbered by debt, and three-fourths of them must be residents of the State in which the bank is established. The directors are personally liable for all losses to share-holders, or to the public, through any violation of law occurring with their knowledge and consent; and the share-holders

are liable, individually, for all debts of the bank, to an amount equal to the par value of their shares, and in addition to their shares. As the number of directors is not less than five, the number of share-holders must be five or more.

In order to provide a suitable basis for the business, the law fixes the minimum of capital stock at $50,000 in places containing a population not over 6000; $100,000 in places containing a population between 6000 and 50,000; and $200,000 for cities containing over 50,000 inhabitants. Half of the capital stock must be paid in before the bank begins business, and the rest within five months afterward; and if the capital should be increased, the additional amount must all be paid in before the increase is authorized. If the capital becomes impaired, it must be made good by an assessment upon the shares.

With the cash thus subscribed and paid in, the banks were originally required to purchase and deposit with the treasurer of the United States not less than the amount of one-third of their capital stock in regis-

tered bonds of the United States, and in no case less than $30,000 in bonds. Instead of one-third of the capital stock, $50,000 is now the maximum required. If the bonds should at any time become depreciated, the law requires an additional deposit to make the security good.

The banks were entitled, under the act of 1864, to receive notes to the amount of 90 per cent. of the market value of the bonds, not exceeding 90 per cent. of the par value, if bearing interest at a rate not less than 5 per cent., and in no case to exceed the amount of the stock. This provision was qualified the next year, so that banks with a capital from $50,000 to $500,000 should receive in notes only 90 per cent., from $500,000 to $1,000,000 only 80 per cent., from $1,000,000 to $3,000,000 only 75 per cent., and from $3,000,000 upward only 60 per cent. of their capital. Payment of the notes so issued is guaranteed by the United States, and the notes are receivable for all dues to the United States except customs, and for all debts and liabilities of the United States except

interest, and redemption of the national currency. The notes of any bank are also to be taken at par by all others; and if any bank fails to redeem its notes at par in lawful money on demand, its bonds are forfeited, and the proceeds are applied to the payment of the notes by the United States.[1]

[1] The Maine banking law of 1857, though belonging to the better class of State laws, furnishes a striking contrast to the strict regulations of the National Bank Act. The Maine banks were required to keep only 5 per cent. of their capital in specie. Upon this reserve they might issue bills to the amount of half their capital. After reaching this limit, they were required to keep one dollar in specie for three dollars in bills, and might increase their issues indefinitely, provided that the whole amount should never exceed the sum of the capital stock and specie on hand, and provided also that all debts, exclusive of deposits, should never exceed twice the capital stock. That is to say, a bank having on hand the cash paid in by the share-holders, might issue twice that amount in bills, without regard to its liability at the same time for deposits; and no provision was made for the ultimate payment of either bills or deposits, except by recourse to the share-holders, who were individually held for amounts equal and additional to their stock at par. This law still remains upon the Maine statute-book. All that is needed to give it effect, is to repeal the United States tax of 10 per cent. imposed upon State bank-bills in 1865, when Congress had finally determined to drive them out of the market.

For the current redemption of the notes, every bank is required to deposit with the treasurer of the United States a special fund at all times equal to 5 per cent. of its circulation; but this fund may be counted as a part of the general reserves, which are based upon the deposits. The banks of St. Louis, Louisville, Chicago, Detroit, Milwaukee, New Orleans, Cincinnati, Cleveland, Pittsburg, Baltimore, Philadelphia, New York, Boston, Albany, San Francisco and Washington are required to maintain reserves of lawful money equal to 25 per cent. of their deposits; and all other banks are to keep in reserve at least 15 per cent. of their deposits. Three-fifths of the 15 per cent. reserves, however, may be kept on deposit as a redemption fund at any of the financial centres named; and one-half of the 25 per cent. reserves may be kept, in the same way, at New York. The actual reserves have usually been considerably above the requirement. On the 1st of October, 1878, the country banks held 36.7 per cent. of their deposits, and the city banks 31.3 per cent.; the average reserves for the

whole country being 33.6 per cent. of the aggregate deposits.[1]

No bank is permitted to become indebted or in any way liable for an amount exceeding its capital stock, except for notes in circulation and deposits. Notes and deposits, if not on hand, are represented by commercial paper or other evidences of debt. But for greater security, it is required that one-tenth of the net profits, every half year, shall be carried to a surplus fund, until the surplus amounts to 20 per cent. of the capital, and that no dividend shall be declared until after this deduction is made. Net profits are to be estimated by deducting all losses and bad debts, and all debts are to be considered bad on which the interest is overdue six months.

No bank is permitted to make loans on its own stock; or to any one person or firm, except in the way of ordinary discounts, to an amount exceeding one-tenth of its capital stock. It was the violation

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[1] Finance Report, 1878, p. 228.

of this latter rule that ruined the City of Glasgow Bank in 1878.[1]

Finally, there is the safeguard of publicity. Quarterly reports of the condition of the banks were originally required to be published in the newspapers of the towns or cities where the banks were doing business. In 1869 this requirement was changed, so that five reports may be called for annually, at such times as may be specified by the comptroller of the currency, and these reports also are made public. A powerful motive is furnished for keeping within the limits of prudent and legitimate banking, when a transgression of

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[1] When the City of Glasgow Bank failed, three firms were indebted to it as follows:

Morton & Co.	£2,173,000
Smith, Fleming & Co.	1,968,000
James Nicol Fleming	1,238,000
	£5,379,000

Mr. James Fleming was a director of the bank, and John Fleming, of Smith, Fleming & Co., was his brother (*British Quarterly Review*, July, 1879, Am. ed., p. 90). The advances to the Flemings were secured on real estate, which is not admissible under the United States law.

those limits may any day be exposed in the home newspapers. The cost of this publication is paid by the banks, and they are liable also for the compensation and expenses of a special examiner, whenever the comptroller may think it necessary to employ one.

The banks have paid from the beginning a United States tax of 1 per cent. per annum on their circulation, ½ per cent. on their deposits, and ½ per cent. on their capital not invested in United States bonds. The shares are taxed by the States, like other personal property, and the real estate of the banking associations is subject to local taxation like other real property.

The immediate object of Secretary Chase was to secure the revenue from the taxes on circulation and deposits, and to dispose of the bonds which he was compelled to sell. Fortunately, in perfecting the law, he had the assistance of an experienced banker, Mr. Hugh McCulloch, who was comptroller of the currency in 1863 and 1864.[1]

[1] Mr. McCulloch was president, until 1863, of the Bank of the State of Indiana.

The act of 1864 was a compilation from the best State laws. It was not a theoretical system, but the outgrowth of practical experience. The New York law furnished the example of a currency secured upon public funds. The prompt payment of stock subscriptions was required to prevent a repetition of the bad practice which had prevailed, in Pennsylvania and elsewhere, of beginning business upon the notes of the stockholders instead of a cash capital. If the bank prospered, the notes were good; otherwise, not. The circulation was based not upon the amount of bonds deposited, but upon the capital stock; because it had been found that borrowed bonds were sometimes deposited in the Western States, so that the notes issued upon them represented debt instead of credit. The directors were required to be residents of the State or Territory in which their banks were established, in order to prevent the organization of institutions intended to accommodate non-resident speculators instead of the community to which they belonged. The personal liability of

directors and stockholders was one of the best features of the New York law. The provision for the redemption of the notes at the financial centres was taken from the Suffolk system, which had grown up in New England, and in spite of much opposition by the country banks, had maintained itself by reason of its evident usefulness in promoting a regular and healthy circulation.

The act of 1864 was thus guarded at all the points of danger indicated by previous experience; but a new peril was subsequently disclosed by the "lock up" of United States notes in New York, in November, 1868. Occasional runs had been made upon the bank reserves before, and so long as the reports were made quarterly, there was always an artificial scarcity of legal tenders at about the time when they were especially wanted by the banks. But in the fall of 1868 three "bears" at the stock board put in operation a scheme which produced an unprecedented panic. Having deposits amounting together to about $10,000,000, they presented their checks one morning and drew out this sum

in legal-tender notes. The city banks were then required to hold reserves equal to 25 per cent. of their entire circulation and deposits. The subtraction of $10,000,000 from the reserves, therefore, compelled the banks at once to contract their loans to the amount of $40,000,000. The withdrawal of such a sum from the commercial business in which it was employed was enough to unsettle values; but there was still another blow to fall. Taking their $10,000,000 in legal tenders, these three men deposited them as collateral security for loans, and then, presenting their checks again, drew out the whole amount of the loans in United States notes. They had thus locked up between $12,000,000 and $16,000,000 in United States notes, and deprived the community of the use of between $48,000,000 and $64,000,000 in bank-notes.[1] This ope-

[1] This was an incident of the speculation at that time in the stock of the Erie railroad. The three men concerned were Jay Gould, James Fisk, and Daniel Drew. The exact sum locked up cannot be determined. Mr. C. F. Adams, Jr., in his Chapter of Erie, p. 67, sets the amount at $12,000,000, which is a minimum. Other estimates run from $12,000,000 to $16,000,000.

ration caused a decline of 25 cents a bushel in the price of wheat throughout the West; it caused a decline of from 3 to 4 cents a pound on the cotton crop of the country; vessels stopped loading at the wharves, and freight trains came empty from the West; the rate of interest ran up to 50 and even 150 per cent. per annum. Stocks came tumbling down, and the street was full of ruined brokers. It was a golden opportunity for the men who had contrived all this disturbance, and they improved it. But when Congress met again, the committee on banking and currency brought in a bill which was passed in February, 1869, forbidding future loans upon United States notes as collateral. At the same session Congress forbade the dangerous practice of certifying checks upon imaginary deposits, whereby in New York over $100,000,000 of fictitious capital had sometimes been created for speculation, and in 1874 the reserves were made to depend upon deposits alone, so that a repetition of the "lock up" of 1868 is now practically impossible.

In 1870 Congress authorized the organization of gold banks under the national law. In the same year the limit of the amount of national currency was changed from $300,000,000 to $354,000,000. The secretary of the treasury had been charged in 1865 to see that $150,000,000 were apportioned to the States and Territories in the ratio of their capital, and $150,000,000 in the ratio of their population. It was now found that the limit had been reached, and that certain States and Territories were not sufficiently supplied with currency. It was estimated that $54,000,000 would make good this deficiency; but, if not, $25,000,000 were to be withdrawn from the States having more than their proportional share. Finally, in 1875, the limit was abolished; and since that time the only restriction upon the supply of bank currency has been the lack of capital, or the absence of any demand for more.

VI.

PRACTICAL WORKING OF THE SYSTEM.

UNDER the bank act of 1863, 139 banking associations were formed, with a capital of about $15,000,000. Under the act of 1864, this number increased within a year to 638 banks, with an aggregate capital of $135,000,000. The national bank-notes outstanding were about $67,000,000. It appeared, however, that an equal amount of the State bank circulation had not been retired. That circulation, in the Northern States, was $173,000,000 in 1863, $170,000,000 in 1864, and $137,000,000 in 1865.[1] The whole reduction had been only $36,000,000. In many cases the State banks had reorganized under the national law, but continued to issue currency under their State charters. To this extent the act was a failure, for its purpose had been, in part, to relieve

[1] Report from the Treasury Department to the Finance Committee of the Senate. Cong. Globe, Feb. 28, 1865, p. 1195.

the country of the uncertainties and embarrassments arising from a currency over which the national government had no control.

Before the meeting of Congress in December, 1864, Secretary Chase had retired from the treasury department, and the chairman of the Senate committee on finance had been appointed his successor. In his report to Congress, Secretary Fessenden said that he was not among the first to approve the bank law adopted by Congress. Time and observation of its effects, however, had convinced him that the system, if not without defects, was based on sound principles and entitled to a fair trial, which it could not have so long as a conflicting system should be allowed to continue unchecked and uncontrolled. He was, therefore, of the opinion that such discriminating legislation should be had as would induce the withdrawal of all other circulation than that issued under national authority, at the earliest practicable moment.

Congress acted upon this recommendation by providing in the internal revenue

bill for a tax of 10 per cent. upon State bank-notes paid out by any bank, State or national, after July 1, 1866. The bill was passed on the last day of the session, March 3, 1865. The section levying this 10 per cent. tax passed the House 68 to 67, and Mr. Brooks, of New York, who had voted with the majority in order to move a reconsideration, made that motion. The yeas and nays on the motion to reconsider stood 71 to 71, and the motion was lost by the Speaker's casting vote.[1] In the Senate the opposition to the tax was equally strong, and was only overcome by the energetic remonstrance of Mr. Sherman, who had charge of the bill. "It is far better," he said, "to abandon the national banking system than to leave it as a cloak for outstanding State issues. If the State banks have power enough in this Congress to prolong their existence beyond the present year, we had better suspend the organization of national banks. As the first friend of this measure in the Senate, I would vote to-day for its

[1] Mr. Colfax was then Speaker.

repeal, rather than allow it to be the agency under which State banks can inflate our currency."[1] Upon these representations the section was adopted by the Senate, 22 to 20.

The development of the system, after the ground was cleared for it by the legislation of 1865, appears in the following table, which gives the number of banks and their aggregate capital, as shown in the first report for each year:

Date.	Number of Banks.	Capital.
Jan'y, 1866	1582	$400,357,346
Jan'y, 1867	1648	420,229,739
Jan'y, 1868	1642	420,260,790
Jan'y, 1869	1628	419,040,931
Jan'y, 1870	1615	426,074,954
March, 1871	1688	444,232,771
Feb'y, 1872	1814	464,081,744
Feb'y, 1873	1947	484,551,811
Feb'y, 1874	1975	490,859,901
March, 1875	2029	496,272,901
March, 1876	2091	504,818,666
Jan'y, 1877	2083	493,634,611
March, 1878	2063	473,952,541
Jan'y, 1879	2051	462,031,396

The slight decrease in the number of banks and amount of capital in 1868, 1869, and 1870 was an unexpected result of the

[1] Congressional Globe, Feb. 27, 1865, p. 1139.

universal acceptance of the notes. It was found that nobody cared to have them redeemed, and so quite a number of the banks went into voluntary liquidation, giving proper notice to the bill-holders (who paid no attention to it), and then enjoying the income from their bonds, and diverting the funds received for their notes to whatever purpose best suited the managers. At the suggestion of the comptroller of the currency, Congress thereupon passed the act approved July 14, 1870, requiring national banks going into liquidation to take up their bonds and deposit with the treasurer of the United States legal tender notes for the redemption of their outstanding bills. After the passage of this act, a steady increase of numbers and capital began and continued until 1876.

To the original capital given above should be added the accumulated surplus, in order to exhibit the complete solvency of the system. This surplus has been made a matter of reproach to the banks, as if it were an extra profit which they had surreptitiously concealed under this title. It

is, in fact, a reserve, which they have been commanded to put aside for the better security of their creditors. It was $43,000,000 in 1866, $133,000,000 in 1876, and $121,000,000 in 1878. The heavy losses of 1876, 1877, and 1878 were charged to this surplus account, leaving the capital unimpaired, and thus illustrating the wisdom of the provision forbidding the banks to divide their whole earnings.

Taking the capital of the national banks in 1870, $426,000,000, with the surplus fund of $90,000,000, and the capital of the State banks then in operation, about $120,000,000, we have for the entire banking capital of the country in that year $636,000,000; which brings us to this rather surprising result, taking the valuation of the United States from the census reports, and expressing both valuation and bank capital in millions.

Years.	Valuation.	Bank capital.	Per cent.
1850	$ 7,136	$227	3.2
1860	16,160	422	2.6
1870	30,068	636	2.1

While the wealth of the country has nearly doubled in each decade, the amount

of capital invested in banking has not kept up to the proportion of 1850, but has declined from 3.2 per cent. of the valuation in that year to 2.1 per cent. of the valuation in 1870.

This fact indicates that the profits of the banks have not been so large as has been supposed. An extravagantly profitable business would have attracted a larger proportion of capital; or, at least, would have kept its original proportion. The matter of profits, however, is not a subject for inference, for the exact statistics are at hand. In 1869 Congress directed the national banks to make returns of their dividends and net earnings, and the ratios are here given to capital and surplus, year by year for nine years:

Years.	Earnings.	Dividends.
1870	10.9 per cent.	8.3 per cent.
1871	10.2 " "	8.3 " "
1872	10.4 " "	8.3 " "
1873	10.9 " "	8.3 " "
1874	9.7 " "	7.8 " "
1875	9.3 " "	7.7 " "
1876	6.8 " "	7.5 " "
1877	5.6 " "	7.1 " "
1878	5.1 " "	6.2 " "

It will be seen that during the last three years of this series the dividends exceeded the net earnings. These dividends were paid, in part, out of previously undivided profits, which amounted to $51,000,000 in 1876, and had been reduced to $45,000,000 in 1878. These profits form an additional reserve, established by the banks themselves for the benefit of their share-holders. The capital cannot be impaired; the surplus cannot be touched; the only provision for an unfavorable turn of business is the reserve of undivided profits.

The losses of the banks during the last three years before the resumption of specie payments amounted to $64,000,000—$13,000,000 more than the aggregate of undivided profits in 1876. Within the eighteen months, ending December 31, 1878, over $36,000,000 of losses were charged off, and of this amount over $5,000,000 were charged off on account of depreciation of United States bonds held by the banks. This is the result, to the banks, of resumption of specie payments. The aggregate of these losses for three years is nearly 14

per cent. of the capital of the banks. The average number of banks passing their semi-annual dividends during the same period was 288—one-seventh of the whole number. On the last dividend day of 1878 357 banks, with an aggregate capital of $59,000,000, paid no dividend.

The banks have borne their full share of public burdens as well as losses. So long as the income and license taxes were generally maintained, the banks paid to the United States annually 5 per cent. of their net earnings, and $2 on each $1000 of capital for a license. These taxes were repealed in 1871. Prior to the repeal, the combined State and national taxes levied upon the national banks amounted to about 4½ per cent. upon their capital; the rate has since been about 3½ per cent. It is fair, however, to estimate the taxes upon the capital and surplus, as the profits are estimated. Taking, therefore, the average capital for 1877—the last year for which complete returns of taxes have been published—we find $485,000,000 of capital and an average surplus of $125,000,000, mak-

ing $610,000,000, upon which the United States collected $6,900,000 and the States $8,830,000, making an aggregate tax of $15,730,000, or 2.6 per cent. upon the gross investment of $610,000,000 — that is $26 upon every $1000 belonging to the shareholders, at a full valuation. It will hardly be denied that the banks have borne their share of the public burdens. They are, in fact, the only bond-holders who are or can be taxed upon their investments in United States bonds.

The note circulation of the national banks reached the maximum of $324,000,000 in 1875; it afterward declined to $301,000,000 in 1878. Not one dollar of these issues has been discredited. There has been no bank panic to increase the distress attending the general liquidation following the collapse of railroad and other speculative investments in 1873. The strength and solvency of the national banking system has alone prevented a general disaster like that of 1839.

Out of the whole number of banks organized under the national law, only 69

have failed in fourteen years. The notes of these 69 have been paid, or provided for, dollar for dollar. On the other claims, payments have been made ranging from 15 to 100 per cent., and averaging 60 per cent. The whole loss is but little over $6,000,000. The average number of failures has been less than five annually, and the average annual loss to creditors has been less than $430,000. The average loss by the failure of 22 savings-banks in the single State of New York, during the seven years ending with 1878, amounted to $1,230,000 a year. Five State banks in Chicago failed in 1877 and 1878, with a loss to creditors of $3,819,500—$764,000 apiece.[1] The losses of the savings-banks were losses of money invested for a profit. They were incurred, mainly, by seeking for too large a profit. Suppose a series of similar disasters had happened to the banks which were carrying loans amounting to $850,000,000 or $900,000,000 for the merchants and manufacturers of the whole

[1] Eighty-nine banks failed in Illinois in 1861 and 1862, before the organization of the national banks.

country. Business would have ceased. Bankruptcy would have been universal. Instead of depression, we should have had ruin.

This misfortune has been averted mainly by the influence of a law which, by wholesome prohibitions and restrictions, enforced by constant supervision and publicity, has restrained such banks as might otherwise have yielded to the current of speculation, and held them to their duty toward the legitimate business of the country. The law was not framed to please the bankers. It did not please them. If it pleases them now, it is not because it affords them special advantages, but because they perceive that its regulations are for the general benefit, and for theirs as a part of the community. Mr. McCulloch said, in a letter written a few years ago, that he was at first strenuously opposed to the plan, because he foresaw that, if it went into operation, the large and prosperous bank of which he was the head must go out of business, or surrender its privilege of issuing two dollars for one of capital. He explains why

he afterward consented to take the office of comptroller of the currency, and goes on to say:[1] "The system grew into favor with me day by day; and I have now no hesitation in saying that, for the United States, it is not only vastly superior to the system which it superseded, but that it is the best system which has been or is likely to be devised."

VII.

FUNDING OPERATIONS OF THE TREASURY.

Mr. McCulloch might well say that the new system was vastly superior to that which it superseded. It is computed that the loss by bills of broken banks averaged, under the State bank system, 5 per cent. of the total circulation annually, so that in twenty years the whole amount of the cir-

[1] Quoted by Comptroller Knox in Finance Report, 1875, p. 202. The Bank of the State of Indiana, in 1862, had a capital of $3,353,050, and a circulation of $5,872,767.

culation was lost in the hands of the people.[1] So loose were the regulations restraining the issue of circulating notes forty years ago, that it was difficult to distinguish counterfeits from lawfully authorized bills. Professor Sumner tells a story of some counterfeiters who were arrested in a New York garret in 1836, with $20,000 in bills of the "Ottawa Bank" and $800 in specie. They affected the utmost indignation, declaring that they were a "bank," and were printing their own notes to save expense; and they came so nearly within the definition then current of a bank, that they escaped on this impudent plea.[2]

Nothing of this kind has been known in the United States since 1864. The cost of exchange, formerly a heavy tax upon the business of the country, has been reduced to a nominal rate by the creation of a uniform and indubitably solvent currency. It is estimated that not less than $4,000,000,000 are annually drawn in exchange by the

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[1] Finance Report, 1875, p. 208.

[2] Scribner's Monthly, March, 1879, p. 684.

West and South upon the East. In 1859 the average cost of Southern and Western exchange upon New York was not less than 1 to 1½ per cent. At the lower rate, the annual cost of exchange would be $40,000,000. Exchange between Chicago, Cincinnati, or St. Louis, and New York is now frequently at par, and rarely exceeds the trifling charge of 80 cents on $1000, instead of $10 or $15, as formerly.[1]

Five per cent. of the bank currency now in circulation would be over $15,000,000; and if to this be added from $40,000,000 to $60,000,000 for domestic exchange, we have between $55,000,000 and $75,000,000 saved to bill-holders annually under the new system. The $17,000,000 of interest on the bonds by which this currency is secured may, therefore, be regarded as a premium for insurance against direct losses amounting to three or four times as much, besides indirect losses, which cannot be measured, from the disturbance of credit and interruption of business.

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[1] Finance Report, 1878, p. 150.

Depositors have been protected at the same time. The deposits in the national banks for the last ten years have averaged a little over $600,000,000. The losses by failure during that time have been about $6,000,000—1 per cent. of the whole amount; not 1 per cent. per annum, but one-tenth of 1 per cent. per annum, which is less than half the cost of insuring property against the single risk of fire. During the panic of 1873 five banking houses and two trust companies, doing business in New York under the State law, went down, but only one national bank failed, and that afterward paid all its creditors in full, and has returned 35 per cent. to the share-holders. In the country at large the national banks were able to discount freely to solvent firms in the face of the panic, and by so doing greatly mitigated the disaster. A year after the shock their loans were $10,000,000 above the mark at which they stood in September, 1873, and did not recede to the old figures until the spring of 1876.

But the national banks were not intended merely to do what the State banks had

previously done, and do it better. They were created to aid the general government directly, first in raising the immense sums needed during the war, and afterward in funding the public debt at lower rates of interest. To appreciate the magnitude of these negotiations, the consequent necessity for a net-work of fiscal agencies covering the whole country, and the actual service rendered by the banks to the treasury, it is necessary to review the financial administration of the government since 1861. A simple statement of the debt, in the order in which the liabilities were incurred, exhibits the whole series of transactions in a striking panorama. The following table gives, under the years in which the various securities were authorized, the total issues of the several classes, and the amount outstanding at the beginning of the financial year 1878–'79:

Securities.	Issued.	Outstanding.
1861.		
Old debt	$134,086,726	$ 19,816,595
6's of 1881	189,321,350	189,321,350
Demand notes	60,000,000	62,298
7-30's of 1861	140,094,750	16,800

Securities.	Issued.	Outstanding.
1862.		
5-20's of 1862	514,771,600	430,800
Legal tender notes	449,338,902	346,781,016
Temporary loan	150,000,000	3,060
Certificates of indebtedness.	561,753,242	5,000
Fractional currency	49,102,660	16,547,769
1863.		
6's of 1881	75,000,000	75,000,000
One-year 5's	44,520,000	51,535
Two-year 5's	166,480,000	38,950
Coin certificates	57,883,400	44,367,000
Compound interest notes	266,595,440	274,920
1864.		
10-40 year 5's	196,117,300	194,566,300
5-20's of 1864	125.561,300	98,300
7-30's of 1864–5	830,000,000	157,150
Navy pension fund	14,000,000	14,000,000
1865.		
5-20's of 1865	203,327,250	346,200
Consols of 1865	332,998,950	110,826,300
1867	379,618,000	310,616,300
1868	42,539,350	37,465,300
1867.		
3 per cent. certificates	85,155,000	5,000
1870.		
Funded loans.		
5's of 1881	517,494,150	508,440,350
4½'s of 1891	240,000,000	240,000,000
4's of 1907	98,850,000	98,850,000
1872.		
Certificates of deposit	64,780,000	46,755,000
1878.		
Silver certificates	1,462,600	1,462,600
Outstanding July 1, 1878,		$2,256,205,893

Hardly any form of indebtedness resorted to during the war is here missing, but even these figures give a wholly inadequate idea of the shifting volume of the temporary loan, payable on ten days' notice; of the certificates of indebtedness, issued in default of money to impatient creditors, and bearing 6 per cent. interest; of the coin certificates, available for customs; and of notes, with and without interest, flowing into the treasury and out in ceaseless currents. The reported issue in these cases represents the greatest volume at any one time.

Here is first the old debt, contracted under laws which Secretary Chase found in force on the 4th of March, 1861. Secretary Cobb, in October, 1860, with authority to borrow $21,000,000, had been able to obtain only $7,022,000. Secretary Dix, in February, 1861, with authority to borrow $25,000,000, had disposed of $8,006,000 in bonds at 90 to 96, receiving $7,243,500 in money. Mr. Chase, in April, had been obliged to sell 6 per cent. bonds at 85 to 94, and had availed himself of the privilege of issuing 6 per cent. notes to creditors at

par. The debt was $90,000,000 when Congress met on the 4th of July, 1861. The securities issued under the old laws during the next year swelled the aggregate to $134,000,000.

Then follows the legislation during the administration of Secretary Chase, from 1861 to 1864. First, the demand notes, intended to relieve the urgent necessities of the government; the 20-year 6's of 1861, taken by the associated banks of Philadelphia, New York, and Boston, just in time to restore the sinking credit of the government; the 7.30 per cent. three years notes, a still more attractive investment. Then, in 1862, the legal tender notes and fractional currency, the temporary loan and certificates of indebtedness—all the makeshifts of a great emergency; and the $500,000,000 of 5-20 year 6's, sold in 1863 by Jay Cooke, through the agency of the banks and by the help of the newspapers all over the country. Then, in 1863, the 17-year 6's, taken by the national banks to secure their circulation; the 5 per cent. notes, of which $800,000,000 were author-

ized and only about $200,000,000 could be marketed; and the 6 per cent. compound interest notes, to which the secretary was obliged to resort.

Before Secretary Chase's time the bonds of the United States had always been issued for a definite time, and usually at 6 per cent. It is due to his foresight and firmness that, for the first time in the history of public loans, the option expressed in the 5-20 and 10-40 year bonds was secured by the government. The current rate of interest, he said in 1861, was greater than the government ought to pay. In 1862 he declared that no prudent legislator would venture to impose on the labor and business of the people a fixed interest of 6 per cent. on a great debt for twenty years; unless the necessity was far more urgent than then appeared. In 1863 he asked for authority to issue 5 per cent. notes, and over $200,000,000 of them were found even then to be available. In spite of earnest remonstrance, he insisted that all loans at 5 per cent. or over should be redeemable at the option of the government after five, or,

at the utmost, after ten years. The 10-40 year 5's were authorized by the last act passed while Mr. Chase was secretary of the treasury. He resigned in June, 1864, and six months afterward was appointed Chief-justice of the Supreme Court of the United States.

Secretary Fessenden's administration, from July 1, 1864, to March 3, 1865, is memorable for the courage with which, even when the treasury was overdrawn, he refused to avail himself of the facile but dangerous aid of a new issue of legal tender notes, and for the brilliant negotiation of the popular 7-30 loan under the skilful management of Jay Cooke. Mr. Cooke had liberal commissions, but they were wholly contingent upon the success of his operations, which involved a large preliminary outlay at his own risk. Not a note was delivered to him until the cash was actually paid into the treasury. Before Mr. Fessenden returned to the Senate he recommended and secured the passage of the act of March 3, 1865, authorizing an issue of 6 per cent. bonds, amounting to $600,000,000 in

addition to amounts previously authorized, and permitting the conversion of any obligations of the United States, whether bearing interest or not, into such bonds, provided that the public debt should not thereby be increased.

The consolidation of the debt and retirement of the legal tenders was thus provided for, in pursuance of the original intention of Congress and of the executive. Secretary McCulloch, if he had retained the confidence of Congress, had ample power to fund the entire debt in 5-20 year 6 per cent. bonds. The consols of 1865, 1867, and 1868 were issued under this authority, to take up the maturing notes, the certificates of indebtedness, and the temporary loan. The legal tenders might have been absorbed in the same way, if the secretary had not conceived it to be his duty to call special attention to this process, and at the same time to allow himself to become involved in the controversy about the reconstruction of the South. By this course he needlessly alarmed the country, at the same time giving mortal offence to the majority in Con-

gress; and the result was the peremptory mandate which, in 1868, forbade the further retirement of the superfluous currency. The 3 per cent. certificates of deposit were issued in 1867 and 1868, to take up the remainder of the compound interest notes.

The administration of Secretary Boutwell, from 1869 to 1873, is marked by the passage of the funding act of 1870. That act authorized the issue of bonds amounting to $200,000,000, afterward increased to $500,000,000, at 5 per cent., payable in ten years; $300,000,000 at 4½ per cent., payable in fifteen years; and $1,000,000,000 at 4 per cent., payable in thirty years. In 1875 Senator Sherman secured the passage of an act requiring a resumption of specie payments in 1879, and authorizing the sale of any of these bonds to provide for the redemption of the fractional currency and of the legal tenders. There has been no subsequent legislation on this subject except the act of 1878, requiring the legal tenders, after redemption, to be reissued and kept in circulation. The certificates of deposit, authorized in 1872 and 1878, bear no inter-

est, and do not affect the amount of the debt.

In 1871 $200,000,000 of the 5 per cent. loan of 1870 were sold, of which amount about one-half was taken by the national banks and one-half was sold to Jay Cooke & Co., representing bankers in Europe and in the United States. In 1873 $100,000,000 more of 5 per cents. were sold by Secretary Richardson. In 1874 Secretary Bristow disposed of the rest of the 5 per cent. loan, mainly in Europe. The 6 per cent. bonds were called in and paid as fast as the new 5's were issued. The commission on this exchange was ¼ of 1 per cent. In 1876 Secretary Morrill sold $90,000,000 of the 4½ per cent. loan to August Belmont & Co., allowing ½ of 1 per cent. commission on condition that the buyers should assume the expense of preparing, printing, transporting, and issuing the bonds, and make payment therefor at the treasury without cost to the government. In 1877 Secretary Sherman sold $150,000,000 more of the same securities to Belmont & Co., and in June the 4 per cents were offered to the

public. Within thirty days the subscriptions ran up to $75,000,000. The further sale was then suspended, on account of the agitation concerning the repeal of the resumption act and the coinage of depreciated silver dollars. In 1878 $100,000,000 more were sold to the public, and heavy importations of United States bonds from Europe were absorbed at the same time. In December, 1878, Secretary Sherman estimated the amount of United States bonds still held abroad at not more than $200,000,000.

It is hardly too much to say that the assistance of the banks in these operations was indispensable.[1] After the Revolution, and again, after the war of 1812, the treasury was compelled to avail itself of the

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[1] "The ease and facility with which such vast refunding operations have been conducted by the government," says Secretary Sherman, "is due largely to the co-operation of the banks."—Letter July 12, 1879, declining an invitation to attend the Saratoga meeting of the Bankers' Association. He adds that these operations were far larger than any previous financial transactions of the government, even during the time of war.

aid of banks holding close relations to the government. The same necessity had once more arisen. The first Bank of the United States absorbed nearly one-fifth of the public debt in 1791. The second Bank of the United States carried about the same proportion of the debt of 1816. When the civil war closed, in April, 1865, the newly organized national banks had aided the treasury in placing and carrying the immense loans required to maintain the armies and fleets in active service for four years, and held themselves government paper to the amount of $390,000,000. They have since assisted in the negotiations by which the interest on the public debt has been reduced from $150,000,000 a year to $83,000,000. Their co-operation alone has made the resumption of specie payments possible. The banks held on the 1st of January, 1879, nearly one-third of the whole issue of legal tender notes. If they had presented these notes for redemption, the example would have been followed by other holders, and the treasury would have been forced to suspend payments.

Before the resumption of specie payments, the funding operations under the act of 1870 could only be effected at the financial centres. The secretary of the treasury was required to sell the bonds issued under that act at not less than their par value, for coin; and so long as there was a difference between coin and United States notes, the inconvenience of obtaining coin outside of the large cities forbade any direct appeal to the great body of the people. Without the machinery of the banks, the currency of the people could not be transmuted into the currency of the government. That difficulty vanished on the 1st of January, 1879, and on that day there were still outstanding and redeemable $569,000,000 of 6 per cent. and 5 per cent. bonds:

Consols of 1865	$ 26,085,550
Consols of 1867	310,614,000
Consols of 1868	37,465,300
6 per cents	$374,164,850
Ten-forties of 1864	$194,566,300
Loan of 1858	260,000
5 per cents	$194,826,300

In a little more than ninety days 4 per cents were sold to the public to take up all the 6's; and the remainder of the loan, to pay off the 5's, was eagerly sought at a premium of ½ of 1 per cent., with an allowance of ⅛ of 1 per cent. commission. A few New York and Boston banks bid off the whole amount at this price, but were only allowed to take $150,000,000, the remainder being reserved for private purchasers, by whom it was speedily taken up in sums of $100.

In July, 1861, Secretary Chase had no means of negotiating a popular loan, save by the employment of postmasters and other designated persons, and this suggestion is actually made in his report of that date.[1] It was the urgent need of skilled financial agents which compelled him to insist upon the passage of the bank act, and, before its passage, to depend upon the State banks for such aid as he required. The support which he received was fully acknowledged in his report for 1862. "They ventured largely, and boldly, and patriotically," as

[1] Congressional Globe, 1861. Appendix, p. 6.

he says, "on the side of the Union and the constitutional supremacy of the Nation over States and citizens." But after all, it was the business of the State banks to buy government bonds low. It became the duty of the national banks to sustain the credit of the government. "Public utility," says Hamilton, "is more truly the object of public banks than private profit; and it is the business of government to constitute them on such principles that, while the latter will result in a sufficient degree to afford competent motives to engage in them, the former be not made subservient to it."[1] How well this sound rule was observed in the constitution of the national banks under the statutes of 1863 and 1864 has been demonstrated by the immediate improvement of the public credit while the war was still flagrant; by the moderate and safe policy of the banks during the period of general expansion from 1868 to 1873; by the steady support which they gave to the funding process, though their own prof-

[1] Reports on the Finances, vol. i. p. 67.

its were thereby curtailed; and, finally, by their co-operation in the resumption of specie payments, although, as has just been shown, the first result was to enable the secretary of the treasury to complete the funding operations of 1879 without their assistance.

There remain $264,000,000 in 6 per cent. bonds, and $508,000,000 in 5 per cents, to be funded at 4 per cent. in 1881, when the government option becomes available. It is not merely in these large transactions, however, that the treasury needs to some extent still the aid of the banks; but chiefly in the daily business of collecting and disbursing a revenue amounting to $275,000,000 a year. These are the figures of Secretary Sherman's estimates for 1880. In 1860 the expenditures of the government, as reported by Secretary Cobb, were $77,000,000, of which $17,000,000 were payments on account of the public debt, leaving $60,000,000 for ordinary expenses. The population of the United States was then thirty-one millions, so that the cost of maintaining the government was about $2 for

each inhabitant. In fact, the ordinary expenses in the year ending June 30, 1861, were $62,000,000, or precisely $2 for each inhabitant. The population in 1880 will be over fifty millions, and the ordinary expenses of the government, at the same rate, will be about $100,000,000. Then there are $138,000,000 estimated for payments on account of the public debt, $29,000,000 for pensions, and a special appropriation of $12,000,000 for the completion of the treasury building and construction of a new building for the war department at Washington, making up the sum of $275,000,000. This is $23,000,000 a month, almost a million dollars for each business day in the year, gathered from the custom-houses, post-offices, and collectors of internal revenue, and disbursed to pensioners, creditors, and officers of the government in every hamlet. In this immense business the banks are constantly employed, receiving and forwarding collections, cashing interest coupons and the checks of disbursing officers, and themselves selling the stamps affixed to checks and drafts, and seeing that they are prop-

erly cancelled. These unobtrusive services attract but little attention; the man who collects a coupon clipped from a $100 bond, or a pension agent's check, at his village bank, free of cost, hardly knows that he has received a favor; but the aggregate of such transactions is enormous, and the saving, both to the treasury and to the public, is very great. If these convenient agencies should be discarded, Secretary Boutwell says,[1] the government "would require a large increase in the number of designated depositories, and a proportionate increase of the public expenses, without the least appreciable advantage."

VIII.

THE LEGAL TENDER CASES.

Chief-Justice Chase had hardly taken his seat upon the supreme bench, when he was called upon to interpret, as judge, the

[1] Finance Report, 1872, p. xix.

series of laws which he had recommended and put in execution as finance minister. And this was a great gain for the country, since no man then or since was so thoroughly acquainted with the whole history of that legislation, and with its practical operation in general and in detail.

In 1863 and 1864 the assessors of New York had levied a tax upon the capital stock of the banks doing business under the laws of that State. Some of these banks resisted the tax, on the ground that it was in fact imposed upon the United States bonds in which a large proportion of their capital was invested, and that the bonds, under the constitution and laws of the United States, were exempt from local taxation. The Court of Appeals sustained the assessments, but the Supreme Court of the United States, at the December term of 1864, adjudged the tax contrary to the national constitution, and so the judgment of the Court of Appeals was reversed. In 1866 the legislature of New York provided by law for refunding to the banks the taxes of 1863 and 1864, collected upon that part

of their capital invested in United States securities, and the board of supervisors of the county of New York was subsequently charged with the duty of auditing the claims of banks in that county for reimbursement under the law. The supervisors refused to allow the claim of exemption upon United States notes; the Court of Appeals sustained the supervisors; and the Bank of New York carried the case to the Supreme Court at Washington.[1]

At the hearing, during the December term of 1868, the corporation counsel, Messrs. O'Conor and O'Gorman, contended that the United States notes were not securities, and so exempt from local taxation, but a new kind of money. "Instead of borrowing money," they argued, "Congress made money, and rendered borrowing unnecessary." The opinion of the court, delivered by the Chief-justice, affirmed that while these notes were intended to circulate as money, and with the national bank-notes to constitute the credit circula-

[1] Supreme Court Reports. 7 Wallace, 26. Bank *versus* Supervisors.

tion of the country, they were nevertheless obligations of the United States, each expressing upon its face an engagement to pay a certain number of dollars. "The dollar intended," said the court, "is the coined dollar of the United States; a certain quantity in weight and fineness of gold or silver, authenticated as such by the stamp of the government." These obligations, it was held, were strictly securities, and under this general description were exempted from local taxation by the acts of February and July, 1862, and expressly by the act of March, 1863. The judgment of the Court of Appeals was therefore reversed.

The character of the United States notes, as obligations to be paid in real money, was thus determined. Their legal tender quality was next to be considered—indeed, was already before the court, brought there by Mrs. Hepburn, of Kentucky, and by five other plaintiffs in as many suits.[1] Mrs. Hepburn had given a note for $11,250 to

[1] Supreme Court Reports. 8 Wallace, 603. Hepburn *versus* Griswold.

Henry Griswold on the 20th of June, 1860, payable on the 20th of February, 1862. The note was not paid at maturity, and in March, 1864, suit having been brought by Griswold in the Louisville Chancery Court, Mrs. Hepburn tendered $12,720 in United States notes for principal, interest, and costs. Gold was then at a premium of about 60 per cent., and the tender was refused. Mrs. Hepburn then tendered the notes to the court, and the chancellor, "resolving all doubts in favor of the United States," declared the tender good, received the notes, and adjudged the debt to be satisfied. Griswold carried the case to the Kentucky Court of Errors, which reversed the chancellor's judgment, and Mrs. Hepburn appealed from the Court of Errors to the Supreme Court of the United States.

Mrs. Hepburn's note was a contract made before the war, to pay $11,250 in coin or its equivalent, and the sum of $11,250 in legal tender notes was worth in March, 1864, only about $7000 in coin. This was not what the contract required, and thus the question was directly raised, whether Congress, un-

der the constitution, could exercise a power forbidden to the States, and enact a valid law impairing the obligation of contracts.

The cause was first argued at the December term, 1867. At the request of Mr. Stanbery, then attorney-general, the court postponed this and other cases, involving incidentally the same question, until December, 1868, when Attorney-general Evarts argued for the government in favor of the legal tender provision of the law, and Mr. Clarkson N. Potter against it. At different times counsel were heard in the other five cases, —seven, including Mr. B. R. Curtis, for the law, and six, including Mr. Bradley, against it. Finally, four of the cases were decided on other grounds; the fifth and sixth were found to turn upon the legal tender acts; and on the 27th of November, 1869, the court decided the case of Hepburn *versus* Griswold in conference. On the 7th of February, 1870, the opinion prepared by the Chief-justice was read from the bench, and the judgment of the Court of Errors of Kentucky was affirmed. In this opin-

ion Justices Nelson, Clifford, Field, and Grier concurred. Justices Miller, Swayne, and Davis dissented.

The conclusion of the court, as stated by the Chief-justice, was, "that an act making mere promises to pay dollars a legal tender in payment of debts previously contracted, is not a means appropriate, plainly adapted, really calculated to carry into effect any express power vested in Congress; that such an act is inconsistent with the spirit of the constitution; and that it is prohibited by the constitution." It was upon the receivability of the notes for government dues, and not upon the quality of legal tender, that reliance for circulation was originally placed; for the legal tender clause was an after-thought, and did not appear in the original draft of the bill. All the useful purposes of the notes would have been fully answered, and were answered by the national bank-notes, without making them a legal tender for pre-existing debts. The application of the law to such debts impairs the obligation of contracts, and is therefore inconsistent with the spirit of the

constitution. Finally, it is a direct violation of the provisions declaring that private property shall not be taken for public use without due compensation, and that no person shall be deprived of property without due process of law.

Justice Miller, who delivered the dissenting opinion, took issue with the majority of the court on the question whether the notes would have served the purpose for which they were issued without the quality of legal tender. The power to make anything but gold and silver a tender in payment of debts, he said, was expressly forbidden to the States; if it existed at all, it was confided to Congress, as an auxiliary to the power to borrow money, to raise and support armies, and to suppress insurrection. When by law the notes were made to discharge the function of paying debts, they had a perpetual credit or value, equal to the amount of all the debts, public and private, in the country. Without this provision, they would have fallen to the dead level of worthless paper. If this is true, Congress acted under the stress of absolute

necessity; and if it is only partly true, the degree of necessity is for the legislature and not for the court to determine.

So the court divided on a purely economical question, whether the value of an inconvertible paper currency is enhanced by making it a legal tender. That the issue of United States notes was within the scope of Congressional authority, was conceded on both sides. The weight of economical opinion is undoubtedly with the majority of the court, and the premium on gold shows conclusively that the legal tender clause did not prevent a serious depreciation of the notes. Justice Miller gives no substantial reason for his theory that the relief which they afforded to the treasury would not equally have been afforded if the United States notes, like the national bank-notes, had been allowed to pass current by common consent at their market value.

In April, 1869, while this case was pending, Congress had passed an act increasing the number of judges of the Supreme Court from eight to nine. On the 1st of

February, 1870, after the decision of the case, but before the judgment was entered, Justice Grier resigned. On the 18th of February, Justice Strong was appointed, and Justice Bradley on the 21st of March, making up the full bench of nine.[1] It is not disputed that these appointments were made for the purpose of overruling the decision of the court in the case of Hepburn *versus* Griswold;[2] for although that decision applied strictly to such contracts only as were outstanding on the 25th of February, 1862, when the legal tender act was approved, it was seen that the entire principle of the law was involved, and it was feared that with gold still at 120 the notes, by some subsequent decision, might be deprived of their forced currency. If this had happened, the only consequence would have been that instead of reckoning gold at 120 and the notes at par, people would

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[1] Supreme Court Reports. 12 Wallace, 528, *note*.

[2] Judge Strong had previously sustained the tender laws in an elaborate opinion, delivered from the Supreme bench of Pennsylvania, in the case of Shollenberger *versus* Brinton. 52 Penn. State, 9.

have quoted the notes at 83 and gold at par; for it would also have been held that outstanding contracts must be regarded as obligations to pay notes and not coin.

The court, as reconstituted, ordered a hearing, at the December term of 1870, of two causes involving the application of the legal tender act to contracts both before and after its date.[1]

The first case was brought from the Circuit Court of the western district of Texas by one Knox, who in 1863 had bought of the Confederate authorities a flock of sheep belonging to Mrs. Lee, of Pennsylvania, and confiscated as the property of an alien enemy. Mrs. Lee, in 1867, brought suit for damages, and the judge in his charge reminded the jury that whatever award they might make could be discharged by the payment of United States notes. The plaintiff in the Supreme Court complained that this suggestion had led the jury improperly to increase the damages, which were fixed at $7368. It was contended that this in-

[1] Supreme Court Reports, 12 Wallace, 457. The Legal Tender Cases.

struction made a distinction between coin and paper tenders, after the passage of the legal tender act.

The second case came from the Supreme Court of Massachusetts. One Parker had agreed, before the legal tender legislation was had, to convey a lot of land to one Davis, on the payment of a certain sum of money. Parker refusing to perform his obligation, the Massachusetts court, in 1867, ordered Davis to pay the money to the court, and Parker to execute the deed, in pursuance of the agreement. Davis thereupon paid the stipulated sum in legal tender notes, but Parker objected that he was entitled to payment in coin, and the objection being overruled, appealed to the Supreme Court at Washington. Mr. B. F. Thomas appeared for Parker, and General B. F. Butler for Davis. The court also ordered that Mr. Clarkson N. Potter, who had argued the case of Hepburn *versus* Griswold, should be heard against the constitutionality of the law, and Attorney-general Akerman in its support. The argument, which was very elaborate, was heard in

April, 1871, and on the 1st of May the judgment of the courts below, in both cases, was affirmed; Justices Strong, Bradley, Miller, Swayne, and Davis concurring in the decision, and the Chief-justice and Justices Nelson, Clifford, and Field dissenting. By a majority of one, without any change of opinion on the part of the members of the court in 1869, the prior decision was overruled, and the court was made to declare that the legal tender acts are constitutional when applied to contracts made before their passage, and valid as applicable to contracts made since.

On the 15th of January, 1872, the opinion of the court was delivered by Justice Strong, and a concurring opinion was delivered by Justice Bradley. Dissenting opinions were read by Chief-justice Chase and by Justices Clifford and Field. The point of difference was still the question whether the legal tender acts had been in any degree essential to the maintenance of the credit of the government, at the time and under the circumstances when they were enacted.

Said Justice Strong:

Plainly, to this inquiry, a consideration of the time when they were enacted, and of the circumstances in which the government then stood, is important. It is not to be denied that acts may be adapted to the exercise of lawful power, and appropriate to it, in seasons of exigency, which would be inappropriate at other times.

In the same way Justice Miller, in his dissenting opinion delivered in 1870, had admitted that in the extraordinary circumstances under which the legal tender acts were passed, must be found the vindication of the exercise of powers so extraordinary. His words were:

The legal tender clauses of the statutes under consideration were placed emphatically, by those who enacted them, upon their necessity to the further borrowing of money and maintaining the army and navy. The debates of the two houses of Congress show that on this necessity alone could this clause of the bill have been carried; and they also prove, as I think, very clearly, the existence of the necessity. The history of that gloomy time, not to be readily forgotten by the lover of his country, will forever remain the full, clear, and ample vindication of the exercise of this power by Congress.

Justice Bradley went farther. After describing the power to give to bills of cred-

it the quality of legal tender as an incident, following almost as a matter of course from the power to issue such bills, he proceeded:

> I do not say that it is a war power, or that it is only to be called into exercise in time of war; for other public exigencies may arise in the history of a nation which may make it expedient and imperative to exercise it. But of the occasions when, and of the times how long, it shall be exercised and in force, it is for the legislative department of the government to judge.

If Justice Bradley has not changed his mind, he has already settled, for himself, the new phase of the question which has been presented to the court by the suit of Juilliard *versus* Greenman. This case grows out of a sale of cotton by the plaintiff, who is a citizen of New York, to the defendant, who is a citizen of Connecticut, in April, 1879, for $5122 90, payable on delivery of the goods. Greenman tendered in payment $5100 in United States notes of the series of 1878, which had been redeemed and reissued under the act of May 31, 1878, and $22 90 in gold and silver coin. The coin was accepted on account, but the

tender of United States notes was rejected, and Juilliard now claims judgment for $5100 with interest and costs. The case was submitted in the United States Circuit Court at New York in June, without argument, and a *pro forma* decision was rendered for the defendant, whereupon the plaintiff appealed to the Supreme Court. Mr. William Allen Butler appeared for Juilliard, and Mr. James McKeen for Greenman. It is understood that Senator Edmunds of Vermont will also argue for the plaintiff, and General B. F. Butler for the defendant at the hearing before the Supreme Court.

This case raises the distinct question whether Congress may properly authorize the issue of a forced currency in time of peace. Justice Bradley holds this to be a matter wholly within the discretion of Congress. Justices Miller and Strong seem to regard it as the exercise of a power which could only be properly invoked in time of war; but it is hard to find a logical foothold anywhere between a total denial of this power and the admission that it may be exercised at the discretion of Congress;

and they, with Justice Swayne, will not improbably be driven to the conclusion of Justice Bradley. Justices Clifford and Field are committed against the constitutionality of this legislation under any circumstances. What the three new judges, Chief-justice Waite and Justices Hunt and Harlan, may think, cannot be so easily inferred. It is safe to say, however, that when the question comes to be argued again, it will be greatly simplified by the disappearance of the premium on gold and by the previous discussions. There will be no longer any pretence that the power claimed is necessary to maintain armies or suppress rebellion, but it will be presented as an incident to the power to borrow money. The precise proposition will be, that it is expedient to declare notes which are convertible into coin on demand, a legal tender, in order to keep them in circulation. This assertion so contradicts everybody's experience, that it cannot be maintained; and the only remaining pretext will be the theory first propounded by Justice Strong, that a power which has been exercised by other nations

must somehow belong to this. But if that be admitted, and the legislature be constituted the sole judge of the necessity for the exercise of such vague powers, it follows, as Chief-justice Chase pointed out, that the government becomes practically absolute and unlimited.

IX.

DRIFT OF PUBLIC OPINION.

While the Supreme Court was thus busy, like Penelope with her web, patiently undoing the work which it had as patiently done, public opinion concerning the currency drifted far away from the safe moorings where it had rested from the foundation of the government.

During the discussion which preceded the passage of the national bank acts of 1863 and 1864, it was invariably and clearly set forth, in executive documents and Congressional debates, that the issue of United States notes was a temporary and doubtful measure, only justified by the controlling

necessity of the times, while the bank act was a permanent provision for a sound, uniform, and convenient paper currency.

The act, which was finally passed in 1863, was submitted to the committee on ways and means by Secretary Chase in December, 1861, and then contained a provision for a temporary issue of United States notes, to relieve the treasury during the interval before the organization of the national banks, which were expected to furnish both a market for the bonds and a currency which could be safely received for taxes. This transformation of the banking system, as has been shown, encountered the unanimous opposition of the State banks, and Congress dared not then proceed with it. The section providing that "for temporary purposes" the secretary should be authorized to issue United States notes, was presented and passed as an independent proposition,[1] and the notes were made a legal tender. Yet, during the discussion of this

[1] The bill, as reported, expressly affirmed that the notes were to be issued "for temporary purposes."—Congressional Globe, January 28, 1862, p. 522.

bill, Mr. Hooper, of Massachusetts, took occasion elaborately to explain the proposed banking system, which was "designed to be more permanent" in its character, and upon the expected results of which, he said, the pending measure was in some degree based. "We all know," said Mr. Fessenden, when the bill came to the Senate, "that it was resorted to as a temporary measure." The opponents of the bill contended that it was the inauguration of a new and ruinous policy, and must therefore be rejected; but the majority replied, in the language of Mr. Sherman, that it was "a mere temporary expedient." "We dare not repeat this experiment a second time," he added; "if we do, we enter on the same course that was followed in the French revolution, and also by our American ancestors." Mr. Sumner, as he reluctantly gave his vote for the bill, uttered the warning which has passed into a proverb, that "The medicine of the constitution must not become its daily bread."

The attention of Congress was recalled to the proposed bank act by Secretary Chase

in December, 1862. "The issue of United States notes," he wrote, "if exclusive, is hazardous and temporary; the security by national bonds of similar notes furnished to banking associations is comparatively safe and permanent." In his message to Congress, of the same date, President Lincoln expressed great doubt whether a circulation of United States notes, payable in coin and sufficiently large for the wants of the people, could be "permanently, usefully, and safely maintained," and recommended the organization of banking associations under a well-guarded national law. When the bill for the organization of such associations came up in the Senate, Mr. Sherman commended it expressly because as soon as the war should be over and the national bonds at par with gold and silver, the banks would become specie-paying banks. "During the war," he said, "the greenbacks are necessary to carry on the government." "It will be toward the close of the war," said Mr. Spaulding in the House, "that this measure will be most valuable in providing a way for funding

the public debt and establishing a permanent system of national currency."

In his report for December, 1863, Secretary Chase announced that "the great work of introducing a permanent national currency," in distinction from the temporary legal tender currency, had been "entered upon in a spirit and with an energy promising perfect success." Except through the national banking system, he said, "no sure way is seen to the complete and permanent establishment of a uniform currency." When Congress entered upon the revision of the bank act recommended by the secretary in this report, a few members expressed a preference for the legal tender currency, to which the country was then becoming accustomed. To them Mr. Hooper replied, that "To confine the right of issuing paper for currency to the treasury department would seem to be a permanent arrangement for an irredeemable currency. When the act was passed authorizing the issue of legal tender notes," he continued, "no one advocated it as a permanent measure, but only as a temporary expedient to

meet the emergency that existed after the banks suspended specie payments at the close of the year 1861." He proceeded to show that the government could not get its bills into circulation, in time of peace, "without assuming the functions of a bank by loaning its notes," and the objection to this expedient he considered too manifest to need any discussion. "If this bill is a success," said Mr. Sherman in the Senate, "I have no doubt that, within a very few years after the war is over, there will be no currency but national currency and gold and silver coin." This, Mr. Sherman said, was also the expectation of Secretary Chase —that the notes of the United States would be funded and retired, and nothing would be left but the national bank currency and coin.

In December, 1864, President Lincoln, in his annual message to Congress, expressed the hope that very soon there might be no bank-note circulation in the United States not secured by the government; and Congress, acting upon the suggestion of Secretary Fessenden, proceeded to lay a 10 per

cent. tax upon the bills of State banks. It had previously been decreed that the issue of United States notes should never exceed $400,000,000. It was now determined that the bank currency should be limited to the $300,000,000 authorized by the national government.

In December, 1865, Secretary McCulloch, who had been comptroller of the currency under Secretary Chase, pursuing the policy of the author of the bank act, and of all its advocates, advised, as the first step toward a resumption of specie payments, that provision should be made for the redemption of the United States notes by the sale of interest-bearing bonds; in other words, that the notes should be funded. He had already ample authority of law for this purpose, provided by the judicious foresight of Secretary Fessenden; but, before using this power, he seems to have desired the special sanction of Congress. His advice was re-enforced by the recommendation of President Johnson. "The gradual reduction of the currency," said the President, "is the only measure that can

save the business of the country from disastrous calamities; and this can be almost imperceptibly accomplished by gradually funding the national circulation in securities that may be made redeemable at the pleasure of the government." So unanimous was public opinion at this time, that on the 18th of December the House of Representatives adopted, by a vote of 144 to 6, the following resolution, offered by Mr. Alley, of Massachusetts:

Resolved, That this House cordially concurs in the views of the secretary of the treasury in relation to the necessity of a contraction of the currency, with a view to as early a resumption of specie payments as the business interests of the country will permit; and we hereby pledge co-operative action to this end as speedily as practicable.

This pledge was redeemed by an act approved April 12, 1866, permitting the secretary to retire United States notes to the amount of $10,000,000 during the six months ending October 12, 1866, and $4,000,000 a month thereafter. The volume of United States notes on the 30th of June, 1866, stood very nearly at the limit of $400,000,000. Under the authority

granted him, Secretary McCulloch called in and cancelled, during the next nineteen months, $44,000,000. On the 4th of February, 1868, the authority to make any further reduction of the currency was suspended, and has never been renewed.

The loan bill of 1866 passed the House of Representatives by a vote of 83 to 53; and the Senate, 32 to 7. There was no vote by yeas and nays on the section authorizing a contraction of the currency. The bill revoking that authority in 1868 passed the House, 127 to 32, and the Senate, 33 to 4. This extraordinary change of opinion within two years was due to three concurrent causes.

In the first place, although Secretary McCulloch executed his trust with great discretion, and no serious financial disturbance occurred, the spectacle of a shrinking volume of currency insensibly affected the imagination of the beholders, and caused a curtailment of credit. Mr. McCulloch said in his speech at Woodstock, in 1878, that "no business interest in the United States suffered while this withdrawal was going

on; and nobody but the officers of the treasury would have known that it was going on, had it not been for the publication of the monthly treasury reports." But, through that monthly publication, everybody did know what was going on; and the scarcity of money, which might otherwise have been correctly explained by the high prices absorbing the currency, was almost universally attributed to the operations of the treasury. This impression caused a real contraction of credit, which was undoubtedly hard to bear, but could better have been borne then than when it came after an intervening period of feverish speculation, as the inevitable sequel of the crisis of 1873.

In the second place, it was Secretary McCulloch's misfortune to hold a seat in the cabinet of a President at odds with the majority in both houses of Congress, and to find himself, on the precise point of difference, in sympathy with the President and not with Congress. In his report for 1866 he had laid great stress upon the importance to the finances of a rehabilitation of

the States then lately in insurrection, and in December, 1867, he recurred to this dangerous topic. As an economist, he was doubtless right; but as a politician, he was wholly wrong. It was folly to expect intelligent attention to a suggestion of this kind from a Congress already clamorous for the impeachment of the President, on the express ground that he had publicly accused the Congress of perpetuating disunion, and preventing the restoration of peace and harmony. The act of February 4, 1868, was intended in part as a rebuke to Secretary McCulloch for meddling with this subject. If a President like Lincoln, and a Secretary like Chase, possessing the full confidence of the dominant party in Congress, had adhered, as President Johnson and Secretary McCulloch unquestionably did, to the financial policy adopted at the beginning of the war and faithfully executed until that time, their recommendations would have been heeded, and the country would have been spared the long misery which has followed the crisis of 1873; for the inflation which prepared the

way for that crisis would have been steadily and firmly repressed, and long before that fatal year our currency would have been restored to its normal value.

Finally, it was at this juncture that the mirage appeared which always rises from the shimmering surface of a fluctuating currency—a vision of unsubstantial splendor, wherein the images of real things were seen floating upside down in the heated air. Men began to say, "The cheap dollar is good enough. Business goes on the same as ever. A rising market makes good trade. If the working-men can't live at these prices, raise their wages. Why interrupt this prosperity?" As if a dollar varying in value from day to day would not surely gravitate to zero, unless some pains were taken to bring it back to par! Others, regardless of the advance of prices, began to assert that the paper dollar was stationary; it was gold that varied. And just at this time a man appeared in Congress who was capable of weaving these flimsy notions into a symmetrical theory. General Butler took his seat as a represen-

tative from Massachusetts in March, 1867. During his first session he proposed to substitute United States notes for the circulation of the national banks; to raise the whole issue of government paper to $1,000,000,000; to pay off $600,000,000 of the interest-bearing debt; and to fund the $1,500,000,000 remaining in a 5 per cent. taxable bond. Specie payments, he said, were for the time out of the question. In 1869 he developed his whole scheme in a speech,[1] which became a text-book for the advocates of a permanently inconvertible currency. He had then reached the conclusion that specie payments were not only temporarily out of the question, but that they ought never to be restored. He proposed to call in the United States notes promising to pay dollars, and to issue, instead, "certificates of value," which should *be* dollars. These certificates were to be issued to anybody in exchange for 6 per cent. bonds, to the amount of 90 per cent. of the par value of the bonds, and on

[1] Congressional Globe, Jan. 12, 1869, p. 303.

returning the certificates, with interest at the rate of 3.65 per cent. per annum, the owner should be entitled to receive his bonds again. The bank circulation was to be retired to make room for the certificates of value, which would constitute a currency "uniform, sound, cheap, stable, and elastic."

This scheme, in 1869, excited only laughter. Two months after it was explained, Congress solemnly pledged the faith of the United States to make provision at the earliest practicable period for the redemption of the legal tender notes in coin. The Presidential election of 1872 settled a long controversy about the payment of the bonds in coin, but nothing was really done about the payment of the notes until the explosion of 1873; and the depression which followed recalled the national legislature to its senses. The first impulse of Congress, then, as it had been in 1863, was toward expansion. The $44,000,000 of United States notes retired by Secretary McCulloch had not been destroyed; the law fixing the limit of such notes at $400,000,000

had not been repealed; the $44,000,000 had been regarded in the treasury department as a reserve, and Secretary Richardson, without specific authority, had reissued $26,000,000 of this reserve. It was contended in debate that these notes were improperly issued; but the Senate finally passed a bill authorizing the issue of treasury notes to the amount of $400,000,000, and of national bank-notes to the amount of $410,000,000. The bill passed the Senate in April, 1874, by a vote of 29 to 24, and the House, 140 to 102. There was no discussion in the House; but General Butler found an opportunity to intimate that this addition of $100,000,000 to the paper currency was, in his estimation, only a beginning. "I think," he said, "we had better *pawl*, as the sailors say in my country—that is, put down the catch and hold what we have got; and then we can spit upon our hands and try another heave." But the catch did not hold. President Grant returned the bill to the Senate unsigned, with a message in which he characterized it as a departure from the true principles

of finance, and a violation of national obligations to creditors, of Congressional promises, and of public pledges on the part of both political parties. Upon the question, Shall the bill pass, notwithstanding the objections of the President? there were 34 yeas and 30 nays, and so the bill, not receiving a two-thirds vote, failed. Later in the session the issue of United States notes was fixed at $382,000,000, the amount then outstanding. Then a new Congress was elected, and at last, in 1875, the resumption act was passed, to take effect on the 1st of January, 1879.

This long delay had given time for the ripening of a plentiful crop of monetary fallacies. There were many men in business, in 1875, who had never known any other than a depreciated and fluctuating currency, and were unable to see why there should be any other. The times were hard, and they were inclined to think that the effort to resume specie payments had something to do with the difficulties under which they were laboring. In some strange way the act of 1875 was conceived to be re-

troactive, and to have caused the panic of 1873. Gradually their hostility was concentrated upon the banks, which always seemed to have plenty of money, and to be unwilling to part with it except on good security. The banks have money as the ship-chandlers have cordage, because that is a commodity in which they deal; but this did not, at first, appear. When it became plain, the situation was suddenly illuminated. The banks, being dealers in money, had contrived to bring about a resumption of specie payments in order to enhance the value of their goods at the expense of their neighbors. This conclusion flows from a confusion of ideas not altogether unnatural. The "value of money" may mean either its value in relation to gold, or its market value, the rate of interest. The banks have no special concern about the gold value of their currency; but they are directly affected by the rate of interest, and the return to specie payments has depressed the rate of interest. So far as their trade is concerned, therefore, the bankers should have been opposed to a res-

toration of specie payments; and many of them were.

Not all who shared this feeling against the banks were prepared to adopt the wild vagaries of which General Butler is the chief exponent. The Prohibition party, which nominated Green Clay Smith for President in 1876, adopted this resolution:

> The national government only should enjoy the high prerogative of issuing paper-money; and that should be subject to prompt redemption, on demand, in gold and silver, the only equal standards of value recognized by the civilized world.

The Greenback convention, which nominated Peter Cooper at Indianapolis, issued this declaration:

> We believe that a United States note, issued directly by the government and convertible on demand into United States obligations bearing a rate of interest not exceeding one cent a day on each $100, and exchangeable for United States notes at par, will afford the best circulating medium ever devised. Such United States notes should be full legal tenders for all purposes except for the payment of such obligations as are, by existing contracts, especially made payable in coin; and we hold that it is the duty of the government to provide such circulating medium, and insist, in the language of Thomas Jefferson, that "bank paper must be suppressed, and the circulation restored to the nation, to whom it belongs."

At the Toledo convention of the same party, in 1878, the name "National" was adopted, and the currency theory was set forth in these words:

> It is the exclusive function of the general government to coin and create money, and regulate its value. All bank issues designed to circulate as money should be suppressed. The circulating medium, whether of metal or paper, shall be issued by the government, and made a full legal tender for all debts, duties, and taxes in the United States at its stamped value.

These extravagant theories found expression not only in the professions of political parties, but in legislative measures. In the Forty-fifth Congress two bills were offered in the Senate and fourteen in the House to repeal the resumption act, and the House, in November, 1877, passed a fifteenth bill for the same purpose, matured and reported by the committee on banking and currency. The premium on gold had then declined to 3 per cent., and yet the House voted, 133 to 120, to abandon the attempt to return to specie payments. The bill went to the Senate, and was pigeon-holed by the committee on finance.

Nine bills were offered in the same Con-

gress, to repeal the tax on the circulation of State banks. One of these bills was offered by Representative Tipton, of Illinois; all the rest by senators and representatives from the Southern States. Mr. John Jay Knox, comptroller of the currency, says[1] he made careful inquiry at the time, and satisfied himself that this was the favorite project of those members who desired to abolish the national banking system. "There were not six members," he says, "from the Eastern and Middle States, who were in favor of the issue of the greenback as the only paper currency of the country; and in the Southern States, so far as I could learn, there was not one member in favor of such substitution."

This latter suggestion came from the West. Mr. Townshend, of Illinois, offered a resolution instructing the committee on banking and currency to inquire into the expediency of withdrawing the national bank circulation, "and winding up the na-

[1] In his speech at Saratoga, August 7, 1879. Proceedings of the American Bankers' Association, 1879, p. 35.

tional banks," and providing the country with "greenbacks or other currency of similar character." Mr. Cobb, of Indiana, offered a bill for the withdrawal of the national bank currency, and the issue of $500,000,000 of legal tender treasury notes. Mr. Hunter, of the same State, proposed to reissue all the greenbacks redeemed under the resumption act and pay them out on the public debt. Mr. Hartzell, of Illinois, offered a bill, "to substitute greenbacks for the issues of the national banking associations," and his colleague, Mr. Fort, proposed a measure to accomplish the same result gradually. Mr. Riddle, of Tennessee, wanted to forbid the organization of new national banks and to prohibit the recharter of those then in operation. Mr. Buckner, of Missouri, offered a bill to retire the national bank-notes; which was perfected, reported from the committee on banking and currency, and made a special order for April 23, 1878, but was not then reached for action. In May, 1878, an act was passed forbidding any further retirement of United States notes, and instructing the secretary

of the treasury to reissue them when redeemed, or received into the treasury from any source whatever, and keep them in circulation. By the third section of the resumption act the limit to the volume of bank-notes had been removed, but United States notes were to be retired to the amount of 80 per cent. of the new currency issued to the banks, and under the operation of that provision the amount of treasury notes had been reduced from $382,000,000 to $346,681,016, at which figure they remain.

The bill forbidding any further reduction of the amount of United States notes was offered in the House by Mr. Fort, of Illinois, and passed under a suspension of the rules, without debate, 177 to 35. In the Senate Mr. Cockrell, of Missouri, proposed to take up the measure at once, without allowing it to go to the committee on finance; but objection was made, and the bill finally followed the usual course. Mr. Bayard, of Delaware, and one or two other senators, called attention to the fact that a proposition to reissue notes which had

been redeemed was evidently a proposition to issue legal tender paper in time of peace, and reminded the Senate that no such power had been claimed by Congress before, and that no such power had been conceded by the Supreme Court, even in the decision by a bare majority affirming the validity of the legal tender act of 1862. Nevertheless the Senate passed the bill, 41 to 18. In 1862 everybody expected that the legal tender currency would be retired as soon as the war was over. In 1878, thirteen years after the close of the war, $346,000,000 of that currency was still outstanding, and two-thirds of the Senate and five-sixths of the House agreed that its volume should not be diminished.

It is only necessary to add that in February, 1879, two months after the resumption of specie payments, Mr. Ewing, of Ohio, from the committee on banking and currency, reported a bill to the House of Representatives, forbidding the sale of bonds for the purpose of maintaining specie payments, and directing the secretary of the treasury to reissue the United States

notes not only to the amount but in the denominations received into the treasury. On motion of Mr. Garfield the bill was laid on the table, 141 to 110. "The experience we are having in this House from day to day," said Mr. Garfield, "makes me fear there will never be any permanent safety to business so long as there is a greenback in circulation."[1]

X.

MR. THURMAN'S SPEECH AT HAMILTON.

SENATOR THURMAN voted with the majority for the act of May 31, 1878, directing the greenbacks to be reissued and kept in circulation. In his speech at Hamilton, Ohio, in August, 1878, he announced his adhesion to the resolutions of the Democratic State convention, and particularly to the resolution proposing a substitution of United States notes for national bank-

[1] Congressional Record, Feb. 23, 1879.

notes. "The question," he said, "is narrowed down to this: Shall our paper money be national bank-notes or greenbacks?" This question, it will be seen, cannot be affected by any decision concerning the legal tender quality of the United States notes. Nobody disputes the right of Congress to borrow money, with or without interest, on time or on call; and if the notes are payable on demand in coin, they will be as good as coin, whether they are expressly declared a legal tender or not.

The question turns wholly on considerations of public economy and reasonable prudence. That the paper currency of the United States will ultimately be issued by the government alone, or exclusively by the banks, state or national, cannot be doubted. Until recently it was commonly expected that the government paper would gradually disappear; yet the displacement of the national bank-notes by treasury notes was proposed as long ago as 1867, by no less a personage than Mr. Randall, of Pennsylvania, since speaker of

the national House of Representatives.[1] Mr. Thurman's reasons for adopting this scheme are here given in his own words:

For every greenback it has issued the government has received value. That greenback has paid for services rendered, or materials furnished, or it has discharged a portion of the interest-bearing public debt. There is thus a saving to the government, or to the people, of an amount equal to interest upon the outstanding greenback circulation; for, had the greenback not been issued, the government would have had to raise the money, by loan or taxation, to meet its expenditures. If it raised it by loan, it would, of course, have to pay interest upon the loan. If it raised it by taxation, the tax-payers lose the interest their money would have earned had they not been compelled to give it to the government.

The greenbacks now outstanding amount to $346,681,016. Computing interest upon this sum at the lowest rate at which the government can borrow money, 4 per cent., and we have an annual saving to the people, resulting from the use of the greenback, of $13,867,240. But if the greenbacks were substituted for the $322,000,000 of national bank notes now outstanding, there would be a further saving to the people of 4 per cent. annually on that sum—namely, $12,880,000—making a total annual saving, by the use

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[1] Congressional Globe, Jan. 7, 1867, p. 325. Mr. Randall's bill was described in the title as "A bill to authorize the issue of treasury notes not bearing interest, to be used in providing a sinking fund for the extinguishment of the public debt."

of the greenback, of $26,747,240. From this, however, deduct the taxes on their circulation paid by the banks, amounting to about $3,000,000 annually, and the net saving would be about $23,750,000. Perhaps, in strictness, this deduction for taxes ought not to be made, for it is probable that the banks throw the burden of the taxation upon their customers, who in turn shift it to the shoulders of those with whom they deal, until, like all other taxation, it finally falls upon the great body of consumers, the people.

This is at least an intelligible statement of the case. The banks have since surrendered $20,000,000 of their circulation, leaving about $300,000,000 outstanding. The volume of United States notes is about $350,000,000. Shall the United States, or the banks, hereafter issue these $650,000,000 of currency? Presented in this form, the question involves the assumption that the addition of $332,000,000 of gold and silver[1] to the stock of money in the country, by the resumption of specie payments, will displace no part of the paper currency; but let that pass.

The rate of interest is fairly taken at 4

[1] This was the amount of gold and silver in the country June 30, 1878, as estimated by the director of the Mint. Finance Report, 1878, p. 260.

per cent. Every dollar of the public debt payable at the option of the government has been called in and refunded at that rate. The saving, therefore, is rightly set at 4 per cent., and on $650,000,000 amounts to $26,000,000 annually.

The bank tax, however, is not correctly stated. $3,000,000 a year is the tax on a circulation of $300,000,000. But the alternative here presented is the issue of $650,000,000 of currency by the United States or by the banks; and 1 per cent. of $650,000,000 would be $6,500,000. The treasury now loses a revenue of $3,500,000 a year by issuing its own notes to the amount of $350,000,000, and would lose $6,500,000 by issuing the whole volume of paper currency. Making this deduction, the apparent saving stands at $19,500,000 instead of $23,750,000, as estimated by Mr. Thurman.

The tax on circulation is properly deducted, for we are considering simply the effect of the proposed change upon the national treasury. For the same reason, the taxes on capital and deposits, and the local taxes, which are sometimes brought into

the discussion, may be excluded, though if the national banks should be "wound up," as has been proposed,[1] or go into voluntary liquidation, the share-holders would have the bonds, in which their capital is mostly invested, left upon their hands, and this portion of their property would no longer be subject to local taxation. The national taxes on capital not invested in United States bonds and on deposits are collected from the 3,709 State banks, trust companies, and private bankers, as well as from the 2,056 national banks; besides, the tax on deposits is a war measure, which ought long since to have been repealed, and cannot be regarded as a permanent source of revenue. The justice and propriety of the tax on circulation, however, is admitted by the banks themselves,[2] and every dollar of

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[1] By Mr. Townshend. See p. 154.

[2] This was conceded in terms at a hearing before the committee on ways and means at Washington, in January, 1878. "We will admit," said Mr. Gould, of Maine, "that if the government grants a right to issue a substitute for money, a proper royalty should be paid for the privilege." Addresses on the Repeal of the Federal Taxes on Deposits. Published by the

it is collected without cost to the government.

We have, then, a saving of $19,500,000 a year, provided that the government can issue the $650,000,000 of currency and substitute the full amount of its demand notes for interest-bearing obligations. Can that be done? Is it done, with the United States notes now outstanding?

Mr. Thurman appears to have overlooked the necessity, as imperative upon the government as upon any private debtor, of keeping a cash reserve to provide for demand liabilities. Secretary Sherman resumed specie payments with a fund of $138,000,000 for the redemption of the notes outstanding in January, 1879. This fund had been accumulated, as Mr. Thurman says, by loan or taxation. The country is losing on this sum, at 4 per cent., by Mr. Thurman's own showing, $5,500,000 a year. This is on a reserve of 40 per cent.

American Bankers' Association, p. 34. On the other hand, Mr. Blaine, in 1866, proposed to levy the bank tax exclusively on deposits. — Congressional Globe, May 23, 1866, p. 2780.

of the circulation. If a similar reserve should be considered sufficient for the $300,000,000 more which it is proposed to send out, the total redemption fund would be $260,000,000, and the annual loss of interest would be $10,500,000. Mr. Thurman's saving of $23,000,000 a year must accordingly be reduced to $9,000,000, which barely equals the probable loss of local taxes; and this small and doubtful economy depends on the supposition that 40 per cent. is an adequate reserve to protect a national currency issued from a single bureau and payable from a single fund.

But it is not adequate. The resumption which we have reached is only a state of equilibrium, which will last so long as there is no demand for specie for exportation. When such a demand sets in, as some time it will, the secretary of the treasury, if he has a note circulation to protect, will have to strengthen his reserves by selling bonds for coin. He will have to provide for his call loans, like any other debtor, by borrowing on time. The Bank of England, which supplies nearly

two-thirds of the paper currency of Great Britain, had in November, 1878, a circulation of $145,000,000 in notes, and held a reserve of $131,000,000 in coin and bullion. The Bank of France, which issues all the paper-money in that country, had in circulation $445,000,000 in notes, and held a reserve of $414,000,000 in specie. The specie reserve of the Bank of England was 90 per cent. of its liability for notes; the Bank of France had a reserve of 93 per cent.[1] Assuming that at least 75 per cent. would be needed in the United States, we should have, on $650,000,000 of circulation, a reserve of $487,000,000, and the annual interest on that sum, at 4 per cent., would be $19,500,000, wiping out the last vestige of the imaginary saving. On a reserve of 90 per cent. the annual interest would be $23,500,000, and there would be an absolute loss of $4,000,000.

It is a mistake to apply banking rules to the reserves for a government circulation. The reserve which will answer for a bank

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[1] American Almanac, 1879, p. 242.

continually receiving deposits, and payment on its loans, will be found totally insufficient for a public treasury without these resources. The national banks held in October, 1878, just before the resumption of specie payments, 30 per cent. of all their liabilities to the public in cash or its equivalent, 42 per cent. in United States and other bonds, and 78 per cent. in loans and other debts due them and daily maturing—in all, $150 of available assets for every $100 owed to bill-holders, depositors, and all other creditors except the share-holders. The treasury, on the 1st of January, 1879, had in cash 40 per cent. of its liabilities for notes and the whole $24,000,000 of deposits —for the treasury is a bank of deposit as well as a bank of issue—making 45 per cent. of its liabilities to bill-holders and depositors. For this deficit of 55 per cent. the government has no resource except the power of taxation and the power to borrow money. But taxation is too slow a process for payment on demand. Practically, the treasury relies upon its power to borrow at a pinch; and this, as Mr. George S. Coe re-

marks, is "a kind of banking which the government would arrest, as criminal, if done by its subjects."[1]

The supposed economy of a convertible treasury note circulation is therefore wholly imaginary and delusive. The reserve must be not less than 75 per cent. of the nominal value of the paper; the loss of interest at 4 per cent. on this sum is equal to 3 per cent. upon the whole issue; and the loss of the bank tax on circulation is 1 per cent. more, making 4 per cent. upon the entire amount. There is no way in which a government can honestly get money, or any other valuable possession, without paying for it.

But the attempt is not merely unprofitable; it is dangerous. There is no record of any government attempting to maintain a convertible paper currency and keeping

[1] Proceedings of the American Bankers' Association, 1879, p. 44. Mr. Dexter A. Hawkins, in a pamphlet issued in January, 1879, proposed to remove this reproach by accumulating in the treasury a coin reserve equal to the whole amount of treasury notes outstanding. This would give us a sound but costly currency.

its promise. Russian paper-money was at a discount for seventy years, and was finally paid off in 1839 at about 30 per cent. in silver. Subsequent issues were again dishonored, and it is said that the imperial government does not now know how much paper has been issued. Austria, since 1848, and Italy, since 1866, have been unable to redeem their treasury notes. Spain and Turkey are in the same condition. Formidable riots have been provoked in Constantinople by the worthlessness of the government paper, and consequent misery of the people. The governments of San Domingo and of the Argentine Republic have issued paper-money which is quoted at a discount of 96 or 99 per cent. One would suppose that this experiment had been often enough tried, with one uniform result, to indicate the wisdom and prudence of retiring this dangerous currency, now that we have succeeded in bringing it to par. That is a feat which has never been accomplished before; the paper-money of France during the late war, and of England during the suspension at the beginning of the pres-

ent century, was not issued by the government directly, but by private corporations. The United States alone, so far, have succeeded in restoring a purely government currency from the depreciation into which it had fallen. It is not well to tempt fate by subjecting the treasury to the constant strain of a large debt payable on demand.

The mere presence of a large reserve in the treasury is a temptation to public extravagance. The existence of the national government does not depend, like the existence of a bank, upon the maintenance of its credit. Members of Congress are not swayed by the motives which control the directors of banks. If the balance in the treasury had been simply enough for the ordinary expenses of the government, the appropriations would not have run up from $114,000,000 for 1878, to $146,000,000 for 1879, and $162,000,000 for 1880.[1]

This is only one warning sign. Not only

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[1] These are Mr. Garfield's figures, in an article on "National Appropriations and Misappropriations," published in the North American Review, June, 1879, p. 580.

have the regular and customary appropriations been rapidly increased, but new outlets have been sought for the public moneys. In June, 1878, and again in February, 1879, the Senate voted a subsidy of $3,000,000 for mail service between the United States and Brazil. In June, 1879, Senator Blaine said he was prepared to support a general law awarding $25 a mile annually to every monthly line of American steamers of 3000 tons, sailing regularly to any foreign port, for the sailing distance; $45 a mile for every semi-monthly line; and $75 a mile for every weekly line; and proportional subsidies for steamers greater or less than the standard of 3000 tons.[1] The Brazilian subsidy was estimated at the rate of $30 a mile for monthly service by steamers of 3000 tons. Fortunately this project, though twice passed by the Senate, was twice defeated by the House of Representatives. Three national conventions in 1876 denounced

[1] Letter to the business men of the city of New York, on the decay of American commerce, and the means of promoting its revival, June 17, 1879.

the policy of subsidizing railroads. A nation encumbered by a heavy debt can no better afford to be generous to builders of steamships than to builders of railroads; but the free-handed senators and representatives have not stopped at steamships. Bills are now before Congress authorizing the secretary of the treasury to endorse the 4 per cent. bonds of a railroad from San Antonio to Laredo to the amount of $15,000 a mile; granting a subsidy of $2,625,000 in bonds to a railroad between Galveston and Rio Grande City; authorizing the secretary of the treasury to invest $870,000 in a mortgage on the Corpus Christi, San Diego and Rio Grande Railroad, and to guarantee the interest for fifty years on $15,000,000 of 5 per cent. bonds issued by the Great Southern Railway Company, on a railroad in Georgia and Florida; granting alternate blocks of six sections of land on the line of the New Orleans, Texas and Colorado Railroad; granting $10,000 a mile in cash to five roads between the Lower Mississippi ports, the Gulf and the Pacific—the whole system making 1515 miles, and call-

ing for $15,150,000, to be repaid in twenty years if the roads are then able, and if not, after twenty years more. Another bill calls for $15,000 a mile, in cash, to aid in the construction of a Southern Pacific railroad, and to be repaid likewise in twenty or forty years, as the case may be. The dangerous character of these schemes was illustrated in 1878 by the vigorous resistance of the Central Pacific and Union Pacific Railroad Companies to the legislation compelling them to provide sinking-funds for the payment of their debts to the United States instead of dividing their entire profits from year to year, and leaving the claim of the United States to take care of itself. There is also a plan to have the United States endorse the bonds of the Dismal Swamp Canal Company to the amount of $400,000 for forty years; and another to procure the same endorsement for the coupons of $4,000,000 in 5 per cent. bonds of the Maryland and Delaware Ship Canal for fifty years. A lot of old State claims have been dug up. Texas wants $7,750,000 for creditors of the Republic of Texas before its admission to the

Union, and $1,629,615 for expenditures for the defence of the frontier; Virginia wants a recomputation of the accounts of the war of 1812; and Georgia wants $35,555 for supplies furnished to the Continental army in 1777.

If these enormous sums were to be raised by taxation, no Congress would venture to entertain projects so ruinous. Such extravagant schemes are bred of the fancy that in some way money can be created by the government. Mr. J. W. Singleton, of Illinois, proposes to issue United States notes, to be paid out indefinitely, upon "any appropriation authorized by law that the ordinary revenue of the government may be insufficient to meet;" and in order that the revenue may be insufficient, another section of the bill proposes to repeal all the internal revenue laws. Mr. Muldrow, of Mississippi, wants to add $500,000,000, and Mr. Weaver, of Iowa, $600,000,000 to the volume of legal tender currency. Mr. Wright, of Pennsylvania, wants to issue $400,000,000 of legal tenders, to be spent on public buildings and in the improvement of rivers and

harbors. Mr. Cox, of New York, has a bill to retire the national bank-notes, when received at the treasury for redemption with the funds provided by the banks, and to cancel a proportionate amount of the bonds deposited as collateral security, issuing United States notes instead. This proposition to seize and confiscate trust funds held by the government is duplicated by Mr. De la Matyr, of Indiana, and triplicated by Mr. Gillette, of Iowa. Mr. De la Matyr has, besides, two magnificent plans—one to fund the entire municipal indebtedness of the country in 2 per cent. 50-year municipal bonds, to be taken by the United States at par for legal tender notes; the other, to issue a loan fund of $1,000,000,000, to be lent for fifty years to any corporations that apply, in such sums as may be wanted, without interest for five years, and afterward at 3 per cent. annually.

To these statesmen a reserve is merely so much idle money. It has even been proposed to suspend the sinking-fund for the payment of the interest-bearing debt. If that fund is not safe, what must be the dan-

ger which besets the reserve for the payment of the notes bearing no interest? In February, 1879, the chairman of the committee on ways and means, Mr. Wood, of New York, seeing that the treasury had a cash balance held as a reserve, required by the resumption law, "which reserve," he said, "does not appear to be needed to maintain resumption," proposed to direct the secretary of the treasury to use so much of the reserve as might be needed to pay the appropriation for arrears of pensions. A few days later Mr. Ewing brought in the bill, already mentioned, forbidding the sale of bonds for the purpose of maintaining specie payments. Mr. Wood's proposition did not come to a vote. Mr. Ewing's was laid on the table, 141 to 110. But if the misappropriation and subversion of a fund which should be held in trust for every note-holder in the country, can be even talked about in less than two months after the resumption of specie payments, by men holding positions on the most important committees of the House, and not only talked about but supported by the votes

of nearly half the members, it is easy to see that the day will come when some demagogue will lead a successful attack upon the treasury, scatter the reserves in some wild scheme of public improvements, and leave the currency to sink once more into an insolvency from which there will be no recovery. A change of sixteen votes would have carried Mr. Ewing's bill through the House. The value of the dollar of account ought not to depend upon an accidental majority: it should represent invariably a certain weight and fineness of the precious metals, and Congress should have nothing to do with it except to see that the makers of a credit currency redeem their promises in coin or go out of business. That is the duty of the government, and there its duty ends.

XI.

PROFIT ON CIRCULATION.

THE profit of the national banks, by reason of their circulation, is about 2 per cent. on the capital employed.

If a company of men, for example, should invest $100,000 in 4 per cent. bonds of the United States, the annual income would be $4000, from which no deduction is to be made for taxation.

If the same men should invest their capital in a State bank, and lend it during the year at an average rate of 6 per cent., they would receive a gross income of $6000, but they would be obliged to pay a State tax of 1½ per cent. and a national tax of ½ per cent. on their capital, amounting to $2000, and reducing their net earnings to $4000, as before.

If the company should form a banking association under the national law, invest-

ing their whole capital in 4 per cent. bonds, they would receive in interest on their bonds $4000. They would also receive $90,000 in bank-bills, of which they would be obliged to invest 5 per cent. in United States notes to be kept at Washington, and 10 per cent. more in United States notes to be kept at home, for the redemption of their bills, leaving $76,500 which might be lent during the year at an average rate of 6 per cent., as before, bringing in $4590. Here is a gross income of $8590, but the shares of bank-stock are subject to a State tax of 1½ per cent., amounting to $1500, and so the income is reduced to $7090. The total advantage from the circulation is, therefore, the difference between $7090 and $4000—namely, $3090, or 3.09 per cent. on $100,000; but this margin has to be divided with the United States government, which levies a tax of 1 per cent. on the total circulation, amounting in this case to $900, and reducing the net profit to 2.19 per cent.

This comparison may be stated more clearly, perhaps, in two accounts, thus:

State Bank.

Income from loans: $100,000 @ 6 per cent.....	$6000
Taxes:	
U. S. tax, ½ per cent. on capital.....	$ 500
State tax, 1½ per cent. on capital.....	1500
Balance.....	4000
	$6000

National Bank.

Income from bonds: $100,000 @ 4 per cent.....	$4000
Income from loans: $76,500 @ 6 per cent.....	4590
	$8590
Taxes:	
U. S. tax, 1 per cent. on circulation.....	$ 900
State tax, 1½ per cent. on shares.....	1500
Balance.....	6190
	$8590

Expenses and losses would affect these margins equally, leaving the constant difference of $2190, or 2.19 per cent., in favor of the national bank.

Now, why should this advantage be given to the national banks?

There are two reasons, one relating to the treasury, the other to the business of the country.

The treasury gets from the State bank a tax, in the case supposed, of $500 a year. From the national bank it gets a loan of

$100,000 at 4 per cent. and a tax besides of $900. Furthermore, the shares of the national bank are subject, like the capital of the State bank, to local taxation, and herein is a reason for placing the bonds of the United States with national banks rather than with private holders.

But the principal benefit accrues after all to the business community. The use of circulating notes enables the banks to lend not only their actual capital to the government, but their corporate credit to the public. The margin of 2 per cent. goes in the end to help the active business men who know how to use money. The bank rate of interest, to regular customers of approved credit, is always lower than the rates of outside bill-brokers and note-shavers.

Consider the movement, for instance, of a single cargo of wheat, from the time it leaves the Western granaries until it is shipped abroad from New York.[1] A buyer

[1] This illustration is borrowed, substantially, from the remarks of Dr. Marsland before the committee on ways and means in 1878. Addresses on the Repeal of the Federal Taxes on Deposits, p. 12.

in St. Paul makes a note for $1000, payable in thirty days, gets it discounted at a St. Paul bank, and goes out on the Northwestern Railroad to buy wheat. He buys to sell again, and the understanding is that when he sells his wheat the note shall be paid. His credit is good; he understands his business; he could get credit of the farmers until the wheat is sold, if they knew him; but he would have to give his note for every separate lot, and he would have to make a second tour to pay his notes; besides, the farmers do not know him, but they know the St. Paul National Bank. The bank simplifies the whole transaction. The bank takes his note in exchange for bank-notes; the exchange is equivalent to an endorsement of his paper; it is the credit of the bank which he borrows. The bank makes all inquiries about his solvency, his capacity and integrity, and charges for this trouble, and for the loan of its credit to the extent of $1000 for thirty days, the moderate sum of six or seven dollars. As soon as the buyer has collected a few car-loads he ships his grain to Chicago, drawing upon

his consignee there for the proceeds, and the St. Paul bank takes the draft and credits him for the amount on notice that the draft has been accepted. The Chicago buyer stores the wheat in an elevator, and when he has collected a cargo of 50,000 bushels, ships it to Buffalo, making a short draft on his Buffalo consignee. The proceeds of this draft go to pay the accepted drafts of the original shippers, forwarded to Chicago banks for collection. The Buffalo consignee forwards the grain to New York by canal, drawing on New York for each boatload of 7000 or 8000 bushels, and these drafts are negotiated by the Buffalo banks. The New York buyer sells the grain for export, taking a sixty days bill of exchange to cover delay in making up a cargo, the time of the voyage, and time for unloading and delivery in Europe, and this bill of exchange is cashed by a New York banker, enabling the merchant to go on buying of Buffalo.

At every step the banks intervene to facilitate these transactions, and always in the same way—by lending their credit to

the customer during the interval before he can receive returns from his consignees. The Minnesota buyer, if he had been obliged to use his own money, must have waited for returns from Chicago before he could have begun buying again. The Chicago consignee, if unable to use his Buffalo draft, would have been obliged to stop buying by the car-load until the draft matured and the proceeds were received by express. The Buffalo shipper would have been equally embarrassed, and so would the New York merchant.

In the same way a shipment of rice might be traced from South Carolina, of cotton from Georgia, of boots and shoes from Massachusetts, or of imported goods from the seaboard. All this mechanism of credit has been devised under the pressure of competition, in order to cheapen the cost of forwarding goods from the producer to the consumer. To modern traffic it is as indispensable as the railroad and the steamship — so indispensable that even a poor banking system is better than none; and the country endured patiently for nearly half a

century a mode of banking which involved losses to the public in worthless and counterfeit bills, high rates of exchange and needless failures, amounting to more than $50,000,000 a year.

It is the duty of the government to prevent these needless disasters by inspecting the banks, as it inspects steam-boilers; and for the first time in the history of the United States the government is performing that duty. The national banks are required to conduct their business safely and prudently; they are compelled to secure their entire credit circulation, and the government holds the security as trustee and guarantor.

The notes are simply a form of credit. When the St. Paul bank issues its notes in exchange for the private note of the wheat buyer, the transaction is substantially the same as when the Chicago bank takes the Chicago seller's draft on Buffalo, and enters the proceeds to his credit on the books. The only difference is, that the book credit is a matter between the bank and the customer, who has every opportunity to know the condition of the bank, while the note

credit becomes a matter between the bank and the community at large, which is not so well qualified to protect itself. For this reason the government properly requires the notes to be secured.

The privilege of using their credit in this form enables the banks to aid in a larger number of transactions than could otherwise be performed. The profit upon their circulation enables them to furnish this accommodation at a lower rate than would otherwise be possible. The volume of their circulation rises or falls with the tide of business. It has been contended that this form of credit is peculiarly liable to a dangerous expansion under the stimulus of speculation, and even that the banks have the power to create an epoch of speculation by efforts to extend their loans of currency. Whatever element of truth may be found in these theories applies also to book credits and loans of capital, or deposits. The argument, pursued to its logical conclusion, lies against every form of credit. That credit involves risk, is no new discovery. The practical question is to reduce

the risk to a minimum without impairing the efficiency of this powerful factor of civilization.

If the national bank act can be still further improved, amended, and qualified, to secure not only note-holders but depositors and share-holders, any proposition looking in that direction will deserve careful consideration. It is certain, however, that we cannot afford to go back to the clumsy State laws; and it is equally certain that the government cannot properly undertake to furnish a credit currency.

In the first place, no government currency would answer for the village banks, which have light deposits, and depend mainly upon their circulation for means to accommodate their customers. The treasury notes would find their way into the vaults of the city banks. The country banks, restricted to their capital and forbidden to use their credit, would be compelled to raise the rate of interest on their loans, or close their doors. Either alternative would be injurious to the communities which they serve. Their separate transac-

tions are small, but the number of these banks is large, and the aggregate of their business is an important part of the business of the country. The village pensioner gets his quarterly check cashed at the bank; the trader gets a cashier's check to pay his debt in the city; the drover gets his note discounted until he can collect a herd of cattle and drive them to market. It is for these and similar services to the public that banks were invented, and will be maintained in spite of all the speculations of all the currency theorists. To propose to dispense with the country banks is like proposing to abandon the way-stations on the railroads, and to run only through trains.

This is a fatal objection to the scheme; but there is still another, inherent in the character of the treasury notes. A currency representing a part of the public debt, gathered up for taxes and paid out for the expenses of the government, would be totally unlike a bank currency expanding and contracting in strict conformity to the demands of traffic. Banks are expressly contrived to collect and lend money for the

transaction of private business. Governments are established to collect and spend money for public uses. The machinery which is fitted for one of these purposes is necessarily unfit for the other. How unfit, can best be shown by a comparison of the operations of the treasury for the last ten years, so far as they affect the amount of money in circulation, with the fluctuations of the bank-note currency during the same period. The following table gives the cash balances on the books of the treasury, as they appear on the 1st of July for each year, and the circulation of the banks in June, as reported by the comptroller of the currency; both in millions:

Date.	Treasury Balances.	Bank Circulation.
1868	$160.6	$298.1
1869	185.1	295.3
1870	178.7	293.9
1871	138.6	309.8
1872	135.4	328.8
1873	160.3	340.0
1874	179.6	339.5
1875	173.6	318.9
1876	150.7	295.1
1877	215.5	290.5
1878	286.9	300.0

During the years 1869 and 1870, it will be seen, the banks were contracting their circulation. The process of retiring the United States notes had been stopped, but Congress had solemnly pledged the faith of the nation to provide for their payment, and the business of the country was adjusting itself to a specie basis. The treasury, during the fiscal year 1869, withdrew from active circulation $25,000,000. But in 1870 the treasury began to expand, and during the next three years paid out $50,000,000 more than the revenue for the same time. The era of speculation set in, which ended in 1873. The banks responded to the demand for money. Their circulation ran up to $340,000,000. In 1873 the treasury suddenly drew in $25,000,000. The explosion followed. In 1874 the treasury absorbed $20,000,000 more. The banks, on the contrary, kept up the volume of their circulation until the panic had spent itself. Then they began gradually to contract their issues. During the next four years their circulation declined to $300,000,000. The treasury, in 1875 and 1876, threw upon the

market $29,000,000, and then, turning another sharp corner, drew in $65,000,000 in 1877, and $71,000,000 in 1878. The variation in the volume of bank currency, running smoothly through a series of years, is $46,000,000. The spasmodic expansions and contractions of the treasury balance amount in extreme cases to 50 per cent. more than this sum in a single year. In 1879 the banks, answering the call for money consequent upon a partial revival of business, increased their circulation by $7,000,000. The treasury collected at the same time nearly $100,000,000 more than the current expenditures, but prevented a serious disturbance of the money market by largely increasing the sum of United States deposits with the banks.

This is precisely what might be expected. Between the revenue of the government and the aggregate of private business some faint and uncertain relations may be traced; but the interest payments, the pensions, the cost of Indian wars, the expenditures for public buildings, for harbor improvements, and for official salaries, bear no relation whatever to

the business of the country. Yet a treasury note currency can only be issued in the course of such payments—unless the government should undertake to lend money on good names and collateral security, for which purpose the banks would have to be employed as government agencies. Without some such contrivance it is impossible to harmonize the varying demands of business with the movements of a currency representing a portion of the public debt. The national banks have performed that office in a degree; and they have been enabled to do it by the law which permits them to receive public deposits and to issue an elastic currency of their own.

It appears, then, that the maintenance of a treasury note currency is unprofitable to the government; it involves the constant danger of a misappropriation of the reserves by Congress; and if it were both profitable and safe, the treasury is nevertheless wholly unfit to take the place and perform the service of banks of issue.

XII.

TAX ON CIRCULATION.

THE privilege of issuing notes to be used as money is granted, of course, because it is for the general advantage that the supply of loanable funds shall be as large as possible, in order that the rate of interest may be low; but a valuable privilege ought only to be conceded by the government, representing the whole people, on certain conditions. It should not be a monopoly, but should be bestowed upon all citizens who desire it, on equal terms. It should not be abused to the injury of the people, and the government should make efficient regulations to prevent such abuse. Finally, the government is entitled to a share of the profits in the form of taxes.

The two latter principles, in their application to the privilege of issuing a credit currency, have commanded the general assent of prudent statesmen and of writers

of repute on political economy. Some theorists have held that the public is no more concerned in the issue of a bank-note than in the negotiation of an ordinary promissory note; but the opinion is nearly universal that the government, in the interest of the community, is bound to regulate such issues, and to require a part of the gains therefrom to be paid into the public treasury.

The question has often arisen, as it arises now in the United States, whether the government should not itself issue whatever paper currency is needed, and so secure whatever profit is to be obtained, for the people at large; but the suggestion has never been adopted except under the pressure of some great exigency, and then with reluctance and well-grounded apprehension.

At the meeting of the first Congress of the United States, in 1789, Alexander Hamilton, the first secretary of the treasury, was directed to report a plan for the support of the public credit, and in January, 1790, he submitted a comprehensive

scheme for funding the national debt, then amounting to $54,124,465, and for securing a revenue to provide for the interest on this sum, and for the gradual extinction of the principal. In this report he said that he contemplated the management of these transactions through the medium of a national bank, and in December, 1790, he presented to Congress an elaborate report on this special subject. In the report on the bank he asserted broadly and clearly the right of the government to regulate paper issues. "If the paper of a bank," he said, "is to be permitted to insinuate itself into all the revenues and receipts of a country; if it is even to be tolerated as the substitute for gold and silver in all the transactions of business; it becomes, in either view, a national concern of the first magnitude." But he rejected, with even more decision and emphasis, the idea of a government currency. On this point he said:

The emitting of paper-money by the authority of the government is wisely prohibited to the individual States by the national constitution; and the spirit of that prohibition ought not to be disregarded by the government of the United States. Though paper

emissions under a general authority might have some advantages not applicable, and be free from some disadvantages which are applicable to the like emissions by the States, separately, yet they are of a nature so liable to abuse—and, it may even be affirmed, so certain of being abused—that the wisdom of the government will be shown in never trusting itself with the use of so seducing and dangerous an expedient. In times of tranquillity it might have no ill consequences; it might even, perhaps, be managed in a way productive of good; but in great and trying emergencies there is almost a moral certainty of its becoming mischievous. The stamping of paper is an operation so much easier than the laying of taxes, that a government, in the practice of paper emissions, would rarely fail in any such emergency to indulge itself too far in the employment of that resource, to avoid as much as possible one less auspicious to present popularity. If it should not even be carried so far as to be rendered an absolute bubble, it would at least be likely to be extended to a degree which would occasion an inflated and artificial state of things, incompatible with the regular and prosperous course of the political economy.[1]

The same question which Alexander Hamilton considered in 1790, came up in England during the long discussion of the means of regulating a paper currency, precipitated by the bank failures of 1825, and culminating in Sir Robert Peel's famous act

[1] Reports on the Finances, vol. i. p. 64.

of 1844. Touching this question, the English statesman said, in summing up the argument in favor of the act:

Another point for consideration is, whether the profits which must necessarily be derived from the circulating medium of the country should be preserved by government, or should be allowed to remain in private hands. Now the advantages, the only advantages which I have been enabled to discover in a government bank, as compared with a private company, are those which result from having responsible persons to manage the concern, the public deriving the benefit; but then, on the other hand, I think these benefits are much more than counterbalanced by the political evils which would inevitably result from placing this bank under the control of the government. I think the effect of the State having the complete control of the circulating medium in its own hands would be most mischievous.[1]

Under the charter of 1844 the capital of the Bank of England, about £15,000,000 sterling, is all invested in the government 3 per cents, and the bank is authorized to issue notes to this full amount without any reserve, but can issue none beyond that sum except in exchange for deposits of gold coin or bullion, and must exchange

[1] These are Lord Althorp's words, in 1832, repeated and adopted by Sir Robert Peel.

notes for coin, or coin for notes, on demand. The operation of the issue department is thus made strictly automatic. For the privilege of issuing notes on the £15,000,000 of government securities the bank pays about £135,000, and in lieu of stamp duties £60,000—in all £195,000—or about 1.3 per cent. on the circulation not covered by gold. The gross circulation in November, 1878, was £29,000,000 sterling, and on this amount the government receives seven-tenths of 1 per cent.

In 1848 the charters of the nine departmental banks of issue in France were revoked, and the privilege of issuing notes was reserved exclusively to the Bank of France. In the same year the bank was compelled to suspend specie payments in consequence of the political disturbances of that time, and the notes were made a legal tender on condition that the whole issue should not exceed 350,000,000 francs. The maximum was raised, in 1849, to 525,000,000 francs, and during the debate in the *Corps Legislatif* on this proposition, it was suggested that the government might as

well issue the currency itself. To this suggestion the veteran finance minister, M. Achille Fould, replied with much warmth:

> You are asked if you will give the bank the power to emit paper-money, and yet refuse to exercise it yourselves. It would be a most dangerous power, and you would not find a prudent man who would be willing to accept it. If you were to give us the power to make paper-money, it would be a sure step to the creation of *assignats*. When once you had armed us with this machine, you would every day present a pistol at our heads and compel us to make use of it on one pretext or another, till at last nobody would accept your paper.[1]

But although M. Fould declined this dangerous responsibility, he took care that the government should secure a share of the profits of the Bank of France. From 1848 to 1871 the bank paid a stamp duty of half a mill on its notes, and since 1871 the tax has been doubled.

In the United States, the civil war of 1861 found the government without any machinery for the negotiation of loans. Gold and silver, the only currency in which taxes could lawfully be paid, disappeared.

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[1] Quoted by George Walker in Proceedings of the American Bankers' Association, 1878, p. 32.

The State bank currency had been tried in the war of 1812, and had failed. In this emergency, Secretary Chase was compelled to consider the alternative of an issue of government notes or the creation of a system of national banks. The former project he deliberately condemned in these words:

> The plan is not without serious inconveniences and hazards. The temptation, especially great in times of pressure and danger, to issue notes without adequate provision for redemption; the ever-present liability to be called on for redemption beyond means, however carefully provided and managed; the hazard of panics, precipitating demands for coin concentrated on a few points and a single fund; the risk of a depreciated, depreciating, and finally worthless paper-money; the immeasurable evils of dishonored public faith and national bankruptcy; all these are possible consequences of the adoption of a system of government circulation. It may be said, and perhaps truly, that they are less deplorable than those of an irredeemable bank circulation. Without entering into that comparison, the secretary contents himself with observing that, in his judgment, these possible disasters so far outweigh the probable benefits of the plan, that he feels himself constrained to forbear recommending its adoption.[1]

Out of this decision, made in concurrence with the weighty opinions already cited,

[1] Finance Report, 1861, p. 18.

grew the national banking system of the United States. To that system we owe the negotiation of the later war loans, the refunding of the debt at 4 per cent., and the restoration of specie payments. For the first time since the expiration of the charter of the second national bank the government of the United States is provided with suitable agencies for the management of important financial operations. And "in the fact of a uniform law for all the issuing banks of the United States," as Professor F. A. Walker remarks, "is found, for the first time in our history, the possibility of regulating the paper-money circulation of the country."[1] If the automatic regulation of the paper currency of Great Britain is to be preferred, as some people think, it may any day be established by Congress, without assuming that mischievous control of the circulating medium which Sir Robert Peel deprecated and the British Parliament declined.

Meanwhile it should be observed that the United States get a larger proportion

[1] Money, p. 508.

of the profits on bank circulation than is secured by the government of England or of France. The tax here is 1 per cent., in England, seven-tenths of 1 per cent., in France, one-tenth of 1 per cent. on the circulation. A still more important advantage in the American system is its entire freedom from monopoly. The national bank recommended by Hamilton, like the public banks of Europe and most of the State banks in this country, was open to this grave objection. We have now a system which furnishes a national currency under the control of the general government, pays a liberal duty for the privilege, aids the treasury efficiently in the management of the public debt, and, besides, is absolutely free to all citizens who choose to comply with the regulations of a general law. This fact makes it impossible that the profits of banking should rule permanently above the ordinary gains in other pursuits, and so removes the last excuse for incurring now the risks from which Secretary Chase shrunk when called upon to provide means for a great war.

XIII.

CONDITION OF THE NATIONAL BANKS IN 1878.

THE net result of the national bank act is to be found in the annual statement of the condition of the banks, compiled and published by the comptroller of the currency. No statement so complete and authentic was ever before made in this country or any other. It exhibits the actual condition of the banks on five different days selected by the comptroller, without previous notice; and the fact that these returns may any day be called for, is a powerful incentive to the banks to keep within the prudent restrictions of the law. If these requirements have tended to restrain speculation, to prevent a declaration of dividends not earned, to provide ample security not only for bill-holders but for depositors and share-holders—in a word, to create a body of solvent banks upon which the commu-

nity may safely rely—then we ought to find evidence of their solvency in the comptroller's reports.

Here is the last report before the resumption of specie payments, showing the condition of the 2053 national banks in operation on the 1st of October, 1878:

Liabilities.

Capital stock	$466,147,436 00
Surplus fund	116,897,779 98
Undivided profits	40,936,213 58
Dividends unpaid	3,118,389 91
National bank notes	301,888,092 00
State bank notes	413,913 00
Private deposits	620,236,176 82
United States deposits	44,997,606 81
Due to other banks	165,133,217 34
Bills payable	7,510,307 77
	$1,767,279,133 21

Resources.

Loans and discounts	$833,988,450 59
Bonds for circulation	347,556,650 00
Bonds for deposits	47,936,850 00
U. S. bonds on hand	46,785,600 00
Other stocks and bonds	36,859,531 82
Due from other banks	53,807,616 86
Due from reserve agents	85,083,418 51
Cash items	10,982,432 89
Carried forward	$1,463,000,553 67

Brought forward.....	$1,463,000,553 67
Clearing-house exchanges....	82,372,537 88
Bills of other banks.....	16,929,721 00
Fractional currency	515,661 04
Specie.....	30,688,606 59
Legal tender notes.....	64,428,600 00
U.S. certificates of deposit....	32,690,000 00
Due from U.S. Treasurer.....	16,543,674 36
Real estate, furniture, etc.....	46,702,476 26
Current expenses.....	6,272,566 73
Premiums paid.....	7,134,735 68
	$1,767,279,133 21

Analyzing these accounts, we find the following liabilities of the banks to the public:

Circulating notes.....	$302,302,005
Private deposits.....	620,236,177
Public deposits.....	44,997,607
Other liabilities.....	172,643,525
Total.....	$1,140,179,314

The circulating notes and the public deposits are amply secured by United States bonds deposited with the treasurer of the United States; but for the purpose of this comparison, let these items also stand as if they were unsecured.

The immediately available resources are these:

Due from reserve agents.....	$85,083,418
Cash items.....	10,982,433
Clearing-house exchanges.....	82,372,538
Bills of other banks.....	16,929,721
Fractional currency.....	515,661
Specie	30,688,607
Legal tender notes.....	64,428,600
U. S. certificates of deposit.....	32,690,090
Due from U. S. Treasurer.....	16,543,674
Total	$340,234,652

Here are one-third of the gross liabilities of the banks in cash or its equivalent. To this sum must be added as available though not instantly available resources, the stocks and bonds:

Bonds for circulation.....	$347,556,650
Bonds for deposits	47,936,850
U. S. bonds on hand.....	46,785,600
Other stocks and bonds	36,859,535
Total.....	$479,138,635

With these resources should be placed the balances due from other banks, so that, without counting upon the loans, the banks can rely upon

Cash, or its equivalent.....	$340,234,652
Stocks and bonds	479,138,635
Due from other banks.....	53,807,617
Total.....	$873,180,904

The total liabilities to the public are $1,140,000,000, and the available resources of the banks are $873,000,000—more than three-fourths of the whole amount, not reckoning $834,000,000 of loans falling due in from thirty to ninety days, and the personal liability of the share-holders to the amount of $466,000,000 more. Failure of such banks as these would seem to be impossible, and, in fact, it is stated that the few failures which have occurred have been occasioned either by criminal mismanagement on the part of the officers, or by neglect or violation of the law on the part of the directors.[1]

It is to be observed, furthermore, that the liabilities to depositors and all outside creditors except bill-holders, amount to $838,000,000, and this amount is absolutely covered by cash and other available resources amounting to $873,000,000. The condition of the banks is precisely what it would have been if they had kept all deposits either on hand or safely invested in

[1] Finance Reports, 1867, p. 4; 1873, p. 99.

the public funds, and had loaned only their own capital and their credit in notes to the amount of about three-fourths of their capital. In other words, they are banking on their own funds, and not on borrowed money.

The proportion of capital to liabilities is much greater in this country than elsewhere—and this, no doubt, is owing to the strict requirement that the authorized capital shall be paid in. In England, as a rule, only a portion of the capital is paid in, though the stockholders are liable in every case for the full amount of their subscriptions, and, except in the limited banks, for all debts of the corporations. The *London Economist* of October 19, 1878, gives the following figures for the capital, reserve, and liabilities of 3417 banks in the United Kingdom, including the Bank of England:

Capital	£90,649,370
Reserve fund and undivided profits	33,969,122
Total	£124,618,492
Liabilities	540,253,501

The corresponding statistics for the na-

tional banks of the United States appear above, as follows:

Capital	$466,147,436
Surplus and undivided profits	157,833,993
Total	$623,981,429
Liabilities	1,140,179,314

It will be seen that the capital of the 2053 American banks is about equal to the capital of the 3417 British banks, while the liabilities of the British banks are considerably more than double the liabilities of the national banks. The ratio of the aggregate capital and reserve to liabilities is 55 per cent. in this country and 23 per cent. in Great Britain.

The unexampled solidity of the national banks attracted the intelligent attention of the *London Economist* as long ago as 1866. After a thorough examination of the then comparatively new system, the *Economist* said, February 24, 1866:

> We find that the banks of America are in a very sound state; we find that they have a larger available reserve against their liabilities than any European banks; we find that they depend far more on their own capital, which cannot be taken from them, than any European banks. In former times—in 1837 and 1857—the State banks of America kept very small

reserves, and failed by wholesale; but this is not the case with the new national banks. If America were now subjected to the difficulties of 1837 or 1857, probably her banks would be able to resist the strain. Of course America must pass through the trying change from war to peace; she ought to pass through the trying change from an inconvertible currency to a convertible. But we now see that in both changes she will be assisted by a sound system of banking, and therefore we need be much less fearful of a momentous crash than if, as in former periods of danger and difficulty, her central institutions of credit had been, even when not insolvent, at least grossly deficient in available resources.

The trying change from an inconvertible to a convertible currency has now been accomplished. "Resumption was made certain on the 1st day of January, 1879," says Comptroller Knox, "by the cheerful co-operation of the banks."[1] Their own notes are redeemable in coin the moment the legal tenders are withdrawn from circulation. In the execution of every measure intended to restore the national credit and lighten the public burdens, the government has been able to rely securely upon the intelligent and powerful aid of the national

[1] Proceedings of the American Bankers' Association, 1879, p. 29.

banks. These advantages have been secured to the public under a law which is not irksome to prudent, well-managed banks, but has proved exceedingly vexatious to those associations which would prefer to do a speculative business with insufficient capital, no reserves to speak of, and an excessive circulation. The sole privilege which the law grants in compensation for its many restrictions, is the right to issue circulating notes. That the banks value this privilege is shown by the fact that they generally abandoned the State system as soon as a prohibitive tax was laid upon the notes authorized by State law. That they do not value it inordinately is also plain; for, although their capital entitles them to over $400,000,000 of notes, and they hold nearly bonds enough to secure that amount of circulation, they have called for only about $300,000,000.

The banks themselves are not specially interested in the proposition to repeal the act of 1864. The national law gives them no such opportunities as they enjoyed under their State charters. The question is,

as it should be, whether the public will be better served by institutions held to the strictest accountability, subject in all their dealings to the control of the national government, or by associations released from all responsibility toward a government from which they receive no privileges. The case is not complicated. It is admitted that the composite system of bank and government paper, established during the war of 1861, cannot long endure. It is proposed to adopt the government paper alone. That would be to return to the continental currency and the colonial currencies. It is proposed to repeal the tax on State bank-notes. That would be to revive the system which failed in the war of 1812 and in the crises of 1819, 1837, and 1857. There is but one course left—to adopt as a permanent system the national banks, which have been tried by the stress of war, and by the crisis of 1873, and have been found to be better planned for service than any mechanism of credit heretofore tested in this country.

THE END.

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banks. These advantages have been secured to the public under a law which is not irksome to prudent, well-managed banks, but has proved exceedingly vexatious to those associations which would prefer to do a speculative business with insufficient capital, no reserves to speak of, and an excessive circulation. The sole privilege which the law grants in compensation for its many restrictions, is the right to issue circulating notes. That the banks value this privilege is shown by the fact that they generally abandoned the State system as soon as a prohibitive tax was laid upon the notes authorized by State law. That they do not value it inordinately is also plain; for, although their capital entitles them to over $400,000,000 of notes, and they hold nearly bonds enough to secure that amount of circulation, they have called for only about $300,000,000.

The banks themselves are not specially interested in the proposition to repeal the act of 1864. The national law gives them no such opportunities as they enjoyed under their State charters. The question is,

as it should be, whether the public will be better served by institutions held to the strictest accountability, subject in all their dealings to the control of the national government, or by associations released from all responsibility toward a government from which they receive no privileges. The case is not complicated. It is admitted that the composite system of bank and government paper, established during the war of 1861, cannot long endure. It is proposed to adopt the government paper alone. That would be to return to the continental currency and the colonial currencies. It is proposed to repeal the tax on State bank-notes. That would be to revive the system which failed in the war of 1812 and in the crises of 1819, 1837, and 1857. There is but one course left—to adopt as a permanent system the national banks, which have been tried by the stress of war, and by the crisis of 1873, and have been found to be better planned for service than any mechanism of credit heretofore tested in this country.

THE END.

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